

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**April 14, 2005**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 14, 2005, at 2:00 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Morris K. Dunlap, Chair; Harold Warner Jr. Vice-Chair; James Barfield; Bill Johnson; Bud Hentzen; Elizabeth Bishop; Denise Sherman and Frank Garofalo. Darrell Downing; John W. McKay Jr.; Ronald Marnell; Gary K. Gibbs and M.S. Mitchell not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jess McNeely, Associate Planner; David Barber, Advanced Plans Manager and Rose Simmering, Recording Secretary.

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**1. Approval of March 24, 2005 meeting minutes.**

**MOTION:** Approval of March 24, 2005 meeting minutes

**BARFIELD** moved, **MARNELL** seconded the motion, and it carried (7-0-2) **GAROFALO** and **DUNLAP** abstain.

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❖ **SUBDIVISION ITEMS**

**2. Consideration of Subdivision Committee recommendations**

**2-1. SUB2004-140 – Revised Final Plat – WATERWALK PHASE 1 ADDITION, located north of Kellogg and west of Broadway.**

**NOTE:** The revised final plat is a replat of the Eastbank 1st Addition. This replat includes the vacation and relocation of portions of Wichita Street, Water, Dewey, Lewis and Waterman.

**STAFF COMMENTS:**

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage easement is needed to correspond with the storm sewer denoted on the drainage plan.**
- D. "Utility easements" need to be denoted on final plat as proposed on preliminary plat.
- E. Block numbers or letters shall be designated on the face of both the overall preliminary and final plats. Blocks shall encompass property bounded by streets.
- F. The owner's certificate shall reference "lots, blocks and streets".
- G. Benchmarks need added.
- H. Recording data for U.S. 54 needs added.
- I. The plat's text needs to reference access control and minimum pad.
- J. A solid line is needed between Lots 1 and 2.
- K. C16 and C17 need to be combined to make one curve.
- L. The utility easements need located.
- M. The plat shall denote reference ties to previously platted lot corners (including city re-survey).
- N. The plat shall denote distance and direction to the monuments used to locate the land described in the certificate of survey.
- O. The plat's text shall note the dedication of the streets to and for the use of the public.
- P. On the overall preliminary plat, **Traffic Engineering** has requested access controls be denoted along the Main Street frontage. The Dewey Street opening along Main is limited to rights-in/out movements, which should be denoted on the face of the plat. Distances should be shown for all segments of access control. The final plats in subsequent phases shall reference the dedication of access controls in the plat's text. **Access controls along Main will be reviewed by Traffic Engineering at final plat stage.**

- Q. The Applicant has denoted building footprints on the overall preliminary plat, which represent adjustments of the Zoning Code standards for the LI, Limited Industrial and GC, General Commercial Districts. The applicant is advised to include proposed setbacks on the Waterwalk Phase One Addition and subsequent final plats. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. **The Applicant will be requesting a zone change to CBD, which will negate the need for setback adjustments.**
- R. The applicant shall meet with **Traffic Engineering** regarding adjustment of the angle of the intersection of Waterman and Lewis on the overall preliminary plat.
- S. The right-of-way width for Main Street needs to be denoted on the overall preliminary plat and the final plat.
- T. The Applicant is advised of the need for potential KDOT approval for off-site parking to the south as denoted on the overall preliminary plat.
- U. A temporary road easement for the existing Dewey, Water and Wichita rights-of-way will need to be established by separate instrument until the new street alignments are completed.
- V. The platlor's text shall include the language "Existing public easements and dedications being vacated by virtue of K.S.A. 12-512(b)."
- W. The language "public roadway and utility easement" denoted within the street right-of-way should be deleted.
- X. The signature line for the Deputy within the Register of Deeds certificate needs to be revised to reference "Tonya Buckingham".
- Y. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- Z. Due to the portion of the site zoned LI, Limited Industrial the applicant should meet with MAPD Current Plans to discuss the need for a zone change to allow for proposed uses. **The Applicant will be requesting a zone change to CBD.**
- AA. **GIS** has requested that the overall preliminary plat include a label for the portion of Wichita St abutting the west property line of Lot 7.
- BB. **Traffic Engineering** has requested additional right-of-way for Waterman.
- CC. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- DD. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- EE. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- FF. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- GG. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- HH. Perimeter closure computations shall be submitted with the final plat tracing.
- II. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- JJ. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- KK. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (9-0).

2-2. **SUB2005-30 – One-Step Final Plat – SHADOW WOODS RESERVE, located east of 151<sup>st</sup> Street West and on the north side of Maple Street.**

**NOTE:** This site is located in the County adjoining Wichita's city limits and annexation is required. The Applicant will be submitting the final plat tracing with the name "The Woods Reserve".

**STAFF COMMENTS:**

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed.
- B. The applicant is advised that a Conditional Use is required for a Major Utility for a water pumping station in Reserve A.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. The Applicant shall guarantee the paving of the proposed streets.
- F. Since Reserve B includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future. **Department of Environmental Health** also advises of the need for plan review prior to licensing of the pool.
- G. A cross-lot circulation agreement is needed to assure internal vehicular movement between the lots. **A temporary opening along Maple has been approved by Traffic Engineering, which will be removed upon construction of a parking lot for the swimming pool on the lot to the north.**
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The Applicant has platted a 20-ft front building setback along Maple, and 10-ft street side setback along Country View Lane, which represents an adjustment of the Zoning Code standards of 25 feet and 15 feet respectively for the SF-5, Single-Family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. **A modification has been approved.**
- K. The new plat name shall be referenced in the plat's text.
- L. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- M. A block number or letter shall be denoted on the face of the plat.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendation.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (9-0).

2-3. **SUB2005-26 – One-Step Final Plat – GODDARD SCHOOL ADDITION, located south of Maple and on the east side of 167th Street West.**

**NOTE:** This is an unplatted site located within the City.

**STAFF COMMENTS:**

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering requests a revised drainage plan.**
- D. **County Engineering** needs to comment on the access controls. The plat denotes four openings along 167th St. West. **Access control and traffic improvements will be determined by County Engineering based upon review of the traffic study.**
- E. The waterline easement needs to be located.
- F. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- G. The Applicant needs to verify the location of the pipeline easement indicated in the platting binder. The easement shall be shown if encumbering this plat, or verification provided that it is off-site or has been released. **The pipeline easement is off-site.**
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (9-0).

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**2-4. SUB2005-31 – One-Step Final Plat – WOODED ACRES ADDITION, located west of Greenwich Road and north of 31<sup>st</sup> Street South.**

**NOTE:** This unplatted site is located in the County within three miles of Wichita's boundary. It is located in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan.

**STAFF COMMENTS:**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. **City Water and Sewer Department** requests a petition for future extension of sanitary sewer and City water services.
- C. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to **Sedgwick County Code Enforcement** to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- D. The site is currently located within the Sedgwick County Rural Water District No. 3. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection.
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- F. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- G. Language for vacation of public dedications should be added. **This issue will need to be reviewed by County Engineering prior to City Council consideration.**
- H. On the final plat, the right-of-way width needs to be denoted for 107th St. East.
- I. **Sedgwick County Fire Department** has required all access drives to be in accordance with Sedgwick County Service Drive Code.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- S. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- T. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (9-0).

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**2-5. SUB2005-32 – One-Step Final Plat – GORGES' TIMBER RIDGE ADDITION, located east of 247<sup>th</sup> Street West and south of 53<sup>rd</sup> Street North.**

**NOTE:** This site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Andale Area of Influence.

**STAFF COMMENTS:**

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to Sedgwick County Code Enforcement to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. County Engineering needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed. The applicant will be platting a floodway reserve.**
- E. County Engineering recommends the plat be reconfigured to include all the property between these lots and 247th West and public access provided to all properties. **The Subdivision Committee required the ingress-egress easement to be located within a 70-ft contingent dedication of street right-of-way to allow for future conversion to a public right-of-way.**
- F. A restrictive covenant shall be submitted regarding the private ingress/egress easement, which sets forth ownership and maintenance responsibilities and limits the private drive to servicing no more than three residential lots.
- G. Sedgwick County Fire Department requires that all access drives be in accordance with Sedgwick County Service Drive Code.
- H. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for the three lots. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **The modification has been approved.**

- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (9-0).

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**2-6. SUB2005-33 – One-Step Final Plat – PAULY-RAUSCH-RICHARDSON ACRES ADDITION, located north of 55<sup>th</sup> Street South and west of 279<sup>th</sup> Street West.**

**NOTE:** This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan.

**STAFF COMMENTS:**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to Sedgwick County Code Enforcement to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. County Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- F. The preliminary plat does not show adjacent owners.

- G. This lot contains less than the required 2-acre minimum lot size. A zoning adjustment will need to be approved for this lot. This adjustment should be submitted after the MAPC approval and prior to release of the plat for recording.
- H. The face of the plat does not correspond with the legal description, which includes the ingress/egress easement within the plat boundaries. The applicant is advised that the legal description currently included in the plat's text would require signature of the plat by the owner of the ingress/egress easement. **The Applicant will remove reference to the ingress/egress easement from the legal description.**
- I. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- J. **Sedgwick County Public Works** recommends access to the site be obtained from adjacent property to the east. **The Subdivision Committee approved the plat with the proposed ingress-egress easement.**
- K. A restrictive covenant shall be submitted regarding the proposed ingress/egress easement, which sets forth ownership and maintenance responsibilities and limits the private drive to servicing no more than three residential lots.
- L. The signature line for the Deputy within the Register of Deeds certificate needs to be revised to reference "Tonya Buckingham".
- M. The MAPC signature block needs to reference "Morris K. Dunlap, Chair".
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- W. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

DUNLAP Everyone should have a revised addition of the staff recommendation that was not in your original packet.

STRAHL This is a county plat and the revised staff report addresses Item J, which is in regards to access. The applicant has proposed an off-site ingress/egress easement extending from 55th Street south to their property. County Engineering originally had requested that they use an existing private drive to minimize driveways along the section line road. The applicant explained that it was not owned by the owner and would have difficulty obtaining access from the adjoining private drive. After discussion by the Subdivision Committee it was approved that the owner should be able to utilize his proposed ingress/egress drive.

**MOTION:** Approve subject to staff recommendations.

**WARNER** moved, **MARNELL** seconded the motion, and it carried (9-0).



2-7. **SUB2005-34 – One-Step Final Plat – THE ROYAL MAGNOLIA ADDITION, located on the south side of 37<sup>th</sup> Street North and west of Maize Road.**

**NOTE:** This is an unplatted site located within the City. The applicant requests a zone change (PUD 2005-01) from SF-5, Single-Family Residential to PUD, Planned Unit Development.

**STAFF COMMENTS:**

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- B. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A revised drainage plan is needed. Drainage easement is needed for Lots 1 and 3. A cross-lot drainage agreement between Lots 1 and 3.**
- E. The applicant shall participate in the paving petition for 37<sup>th</sup> Street North.
- F. The diagonal portions of the drainage and utility easements need to be located.
- G. The dimension of 1015.12 in legal description needs to be checked.
- H. **Traffic Engineering** has requested the access openings be defined as denoted on the PUD site plan. The plat proposes two openings along 37<sup>th</sup> St. North. Distances should be shown for all segments of access control. A restrictive covenant shall be submitted that requires the closure of the east opening on Lot 2 upon the establishment of a commercial use.
- I. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- J. A cross-lot access agreement shall be submitted that permits cross-lot access through Lot 2 for the benefit of Lot 3. The southwestern adjoiner should also be contacted regarding this access agreement.
- K. A Block shall be designated on the face of the plat as referenced in the plat's text on the final plat.
- L. The signature line for the Deputy within the Register of Deeds certificate needs to be revised to reference "Tonya Buckingham".
- M. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 1. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner

should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** Approve subject to staff recommendations.

**WARNER** moved, **MARNELL** seconded the motion

BISHOP I was wondering about the comments, 12:30 a.m. would be the end time.

MCNEELY That is noted on the PUD document. Look at Parcel C, the bottom right hand corner; down towards the bottom. It addresses the hours of operation and the location of the music.

DUNLAP We already passed that case and now we are looking at the final plat.

**MOTION CARRIED:** 9-0

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**2-8. DED2005-07 – Dedication of Street Right-of-Way and DED2005-08 – Dedication of a Utility Easement, for property located south of Central and on the east side of Ridge Road.**

**APPLICANT:** R.D. Woods, Ridge Plaza, LLC, P.O. Box 75264, Wichita, KS 67275-0264

**AGENT/SURVEYOR:** Baughman Company, 315 Ellis, Wichita, KS 67212

**LEGAL DESCRIPTION:** A) The west 10 feet of Lot 1, Woodland Heights Second Addition, Wichita, Sedgwick County, Kansas; and B) The east 20 feet of Lot 1, Woodland Heights Second Addition, Wichita, Sedgwick County Kansas, except the north 205.00 feet thereof.

**PURPOSE OF DEDICATION:** These dedications are associated with a lot split case (SUB 2005-09), and are being dedicated for street right-of-way along Ridge Road, and construction and maintenance of public utilities.

**STAFF RECOMMENDATION:** Accept the Dedications.

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (9-0).

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**2-9. DED2005-09 – Dedication of a Water Easement, for property located south of 21<sup>st</sup> Street North and on the east side of Tyler Road.**

**APPLICANT:** L.D.Carney, DAC, LLC, 2118 N. Tyler Road, Bldg. B, Ste. 101, Wichita, KS 67212

**AGENT/SURVEYOR:** Baughman Company, 315 Ellis, Wichita, KS 67212

**LEGAL DESCRIPTION:** Part of Lot 3, Westwind Fifth Addition, Wichita, Sedgwick County, Kansas.

**PURPOSE OF DEDICATION:** This dedication is associated with a lot split case (SUB 2004-149), and is being dedicated for and construction and maintenance of public utilities.

**STAFF RECOMMENDATION:** Accept the Dedication.

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (9-0).

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**2-10. DED2005-10 – Dedication of Access Control, for property located on the north side of Maple and west of Maize Road.**

**APPLICANT:** Mark Gross, 211 S. Tyler Road, Wichita, KS 67209

**AGENT/SURVEYOR:** Tim Austin, Poe and Associates, 5940 E. Central Ste. 200, Wichita, KS 67208-4242

**LEGAL DESCRIPTION:** The east 101.75 feet of the south 225.5 feet of the east 111.75 feet of the west 289.75 feet of Lot 3, Block 20, Oak Cliff Estates Addition, Wichita, Sedgwick County, Kansas.

**PURPOSE OF DEDICATION:** This dedication is associated with a lot-split case (SUB 2004-70), and is being dedicated for complete access control along Maple Street.

**STAFF RECOMMENDATION:** Accept the Dedication.

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (9-0).

**2-11. DED2005-12 – Dedication of Street Right-of-Way; and DED2005-13 – Dedication of Street Right-of-Way, for property located on the northwest corner of Douglas and Tyler Road.**

**A) DED 2005-12:** Dedication of Street Right-of-Way; and **B) DED 2005-13:** Dedication of Street Right-of-Way, for property located south of Central and on the east side of Tyler Road.

**APPLICANTS:** **A)** John M. and Cathy M. Torres, 1372 Pine Grove Ct., Wichita, KS 67212; and  
**B)** Ronald R. and Janice C. Franks, 249 N. Woodchuck, Wichita, KS 67212

**AGENT/SURVEYOR:** Mark Savoy, Savoy Company, P.A. 535 S. Emporia, Ste. 104, Wichita, KS 67202  
\*(Address Corrected)

**LEGAL DESCRIPTION:** **A)** The east 10 feet of Lot 3, R. Beard Addition, Wichita, Sedgwick County Kansas; and **B)** The east 10 feet of Lots 1 and 2, R. Beard Addition, Wichita, Sedgwick County, Kansas.

**PURPOSE OF DEDICATION:** These dedications are associated with a zoning case (ZON 2004-58), and are being dedicated for street right-of-way along Tyler Road, and for construction and maintenance of public utilities.

**STAFF RECOMMENDATION:** Accept the Dedications.

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **JOHNSON** seconded the motion, and it carried (9-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

**3-1. VAC2005-06 – Request to Vacate a platted Utility Easement, located midway between 29<sup>th</sup> Street and 21<sup>st</sup> Street North, west of Maize Road and on the north side of Central Park Street.**

**APPLICANT/OWNER:** Socora Village Company      New Market Square LTD

**AGENT:** PEC c/o Rob Hartman

**LEGAL DESCRIPTION:** The platted 10-foot utility easement running parallel to the south lot of Lot 26, Block 7, the Evergreen Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located generally located midway between 29<sup>th</sup> Street North and 21<sup>st</sup> Street North, west of Maize Road and on the south side of Central Park Street (Council District V)

**REASON FOR REQUEST:** Replace with 10-foot water line easement

**CURRENT ZONING:** Subject property and properties south and north of it are zoned "LC" Limited Commercial. Properties to the east and the west are zoned "SF-5" Single-family Residential

The applicant is requesting consideration to vacate a platted 10-ft utility easement located parallel to the south lot line of Lot 26, Block 7, the Evergreen Addition. There is a water line located in the east approximately 200-feet of the platted utility easement. There are no manholes or sewer lines in the easement. Westar utilities have equipment in the platted easement. There is a platted 5-foot wall easement that is south and running parallel to the proposed vacated easement, on Lot 1, the New Market Square

Addition. Abutting the south end of the platted wall easement, running its entire length, there is a platted 20-foot utility easement on Lot 1, the New Market Square Addition. The Evergreen Addition was recorded with the Register of Deeds August 31, 1998.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted utility easement, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 24, 2005, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described platted utility easement and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted utility easement described in the petition should be approved subject to the following conditions:
- 1) Per the recommendation of the City's Public Works, Water & Sewer Departments and the franchised utilities, provide any additional easement(s) needed for public and franchised utilities. In particular address the issue of Westar having a future need for the easement for their equipment. Retain the easement until the Westar issue has been resolved.
  - 2) Retain that eastern portion of the platted 10-foot utility easement where the existing water line is located on Lot 26, Block 7, the Evergreen Addition, until such time that the water line is relocated.
  - 3) Provide Public Works/Water and Sewer with any necessary plans and guarantees needed for the relocation of the water line in the platted 10-foot utility easement.
  - 4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
  - 5) All improvements shall be according to City Standards.
  - 6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Per the recommendation of the City's Public Works, Water & Sewer Departments and the franchised utilities, provide any additional easement(s) needed for public and franchised utilities. In particular address the issue of Westar having a future need for the easement for their equipment. Retain the easement until the Westar issue has been resolved.
- (2) Retain that eastern portion of the platted 10-foot utility easement where the existing water line is located on Lot 26, Block 7, the Evergreen Addition, until such time that the water line is relocated. In particular address the issue of Westar equipment being in the platted easement; retain the easement until the Westar equipment has been relocated, at the applicant's expense, and provide any needed easement(s) to cover the Westar equipment either where it is currently located or in a new location as approved by Westar.
- (3) Provide Public Works/Water and Sewer with any necessary plans and guarantees needed for the relocation of the water line in the platted 10-foot utility easement.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- (5) All improvements shall be according to City Standards.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **BISHOP** seconded the motion, and it carried (9-0).

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**3-2. VAC2005-07 – Request to Vacate platted Complete Access Control, located north of 21<sup>st</sup> Street North and on the east side of Webb Road.**

**APPLICANTS/OWNERS:** Slawson Investment Corporation

**AGENT:** PEC, c/o Rob Hartman

**LEGAL DESCRIPTION:** Generally described as the south 50-feet of the north 60-feet of that portion of Lot 4, Block 1, the Tallgrass East Commercial Addition, Wichita, Sedgwick County, Kansas, running parallel to Webb Road

**LOCATION:** Generally located approximately 700-feet north of 21<sup>st</sup> Street North, on the east side of Webb Road  
(District II)

**REASON FOR REQUEST:** To allow a right-in right-out driveway onto Webb Road

**CURRENT ZONING:** The site and abutting southern and adjacent western properties are zoned "LC" Limited Commercial. Abutting northern and eastern properties are zoned "SF-5" Single-family Residential

The applicant has applied for the vacation of the complete access control along the site's south 50-feet of the north 60-feet of its Webb Road frontage, to allow one right-in right-out driveway from Lot 4, Block 1, the Tallgrass East Commercial Addition. The subject site is on the northeast corner of the 21<sup>st</sup> Street North – Webb Road intersection. The subject site is part of CUP DP-168, which has integrated access, circulation and parking, including two existing platted access/drives onto 21<sup>st</sup> Street North and another one onto Webb Road. The current platted access/drive is 176.32-feet south of the proposed access/drive. At this location Webb Road is a four-lane arterial with a turn lane on its east side abutting the subject site. West, across Webb Road from the subject site, the platted Webb Road Booster Pumping Station Addition has one allowed drive/access along its 600-feet of Webb Road frontage. This existing drive lines up just south of the subject site's current platted drive/access and is approximately 200-feet south of the proposed drive. The other nearest (north of the proposed drive) street or drive intersection onto Webb Road is approximately 1200-feet north of the proposed drive. With the proposed drive there would be three drives on the east side of Webb Road within the first 700-feet north of the 21<sup>st</sup> Street North – Webb Road intersection. There are no water or sewer lines located in this side of the Webb Road right-of-way. The Tallgrass East Commercial Addition was recorded with the Register of Deeds February 22, 1989.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted access control, per the approval of the Traffic Engineer, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 24, 2005 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted complete access control and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted complete access control described in the petition should be approved with conditions:
1. Vacate that portion of platted access control along the site's Webb Road frontage, as approved by the Traffic Engineer to allow one right-in right-out drive onto Webb Road. Provide Staff with a metes and bounds description of the location of the new drive.
  2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
  3. All improvements shall be according to City Standards, including any driveways from private property onto public ROW.
  4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate that portion of platted access control along the site's Webb Road frontage, as approved by the Traffic Engineer to allow one right-in right-out drive onto Webb Road. Provide Staff with a metes and bounds description of the location of the new drive.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- (3) All improvements shall be according to City Standards, including any driveways from private property onto public ROW.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** Approve subject to staff recommendations.

**MARNELL moved, BISHOP** seconded the motion, and it carried (9-0).

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**3-3. VAC2005-08 – Request to Vacate platted Access Control, located south of 29<sup>th</sup> Street North, approximately ¼ mile east of Ridge Road.**

**APPLICANTS/OWNERS:** Stephan & Carolyn Langhofer Mark & Susan Eaton

**AGENT:** Baughman Co. PA., c/o Phil Meyer Randy Ketzner

**LEGAL DESCRIPTION:** Generally described as the west 14.00-feet of complete access control over the east 89.98-feet of that north portion of Lot 2 running parallel to the 29<sup>th</sup> Street North and the east 30-feet of the west 87.02-feet of that north portion of Lot 3 running parallel to the 29<sup>th</sup> Street North, all in Block A, the Barefoot Bay Estates Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located on the south of 29th Street North approximately 1/4 mile east of Ridge Road.

**REASON FOR REQUEST:** To realign driveways to match up with existing driveways and proposed driveways

**CURRENT ZONING:** The site and all abutting eastern and adjacent northern parts of the southern properties are zoned "SF-5" Single-family Residential. Adjacent western and a portion of the northern and southern properties are zoned "LI" Limited Industrial.

The applicant has applied for the vacation of the complete access control along the subject site's 29<sup>th</sup> Street North frontage. The vacation will allow the one 30-foot drive on Lot 2 to shift itself 14-feet east and allow the one 30-foot drive onto Lot 3 to shift itself 123-feet east; all lots are in Barefoot Bay Estates Addition. There will be 133-feet of access control between the new drives, if the vacation is approved, instead of the current 300-feet. It is not clear what the realigned drives will be matching up with north, across 29<sup>th</sup> Street North. There is a large sand pit north, across 29<sup>th</sup> Street North from the site. The drives provide the only access onto two large single-family lots that abut a sand pit on their south sides. 29<sup>th</sup> Street North is a paved two-lane arterial that has primarily single-family development on either side of it at this location and some undeveloped "LI" property around sand pits. There are manholes and sewer lines located in portions of the 29<sup>th</sup> Street North ROW at his location. The Barefoot Bay Estates Addition was recorded with the Register of Deeds February 24, 2004.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted access control, per the approval of the Traffic Engineer, with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 24, 2005 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted complete access control and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of a portion of the platted complete access control described in the petition should be approved with conditions:

1. Vacate that portion of platted access control along the site's 29<sup>th</sup> Street North frontage, as approved by the Traffic Engineer to allow the shifting of the 30-foot access onto Lot 2 & 3, the Barefoot Bay Estates Addition. Provide Staff with a metes and bounds description of the location of the realigned drives.

2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
3. All improvements shall be according to City Standards, including any driveways from private property onto public ROW and if necessary provide a guarantee to close the existing drives.
4. Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate that portion of platted access control along the site's 29<sup>th</sup> Street North frontage, as approved by the Traffic Engineer to allow the shifting of the 30-foot access onto Lots 2 & 3, the Barefoot Bay Estates Addition.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
3. All improvements shall be according to City Standards, including any driveways from private property onto public ROW and if necessary provide a guarantee to close the existing drives.
4. Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** Approve subject to staff recommendations.

**MARNELL moved, BISHOP** seconded the motion, and it carried (9-0).

**3-4. VAC2005-09 – Request to Vacate platted Right-of-Way, located east of Hoover Road, approximately 0.6 mile north of State Highway K-42.**

**APPLICANTS:** B&E Investments c/o Matt EckBrand Plumbing c/o Mike Brand

**AGENT:** Baughman Company PA c/o Phil Meyer

**LEGAL DESCRIPTION:** Generally described as that portion of Hoover Court abutting the north side of Lot 1, the WB Carter Addition and as platted on the WB Carter Addition, Wichita, Sedgwick County, Kansas  
And  
Generally described as that portion of Pawnee Avenue established per Misc. Book 354, Page 529, that abuts the south side of the unplatted tract D-432-UP

**LOCATION:** Generally located between Hoover Road, on its west side, and the Cowskin Floodway, on its east side, approximately 3,000-feet north of State Highway K-42 (WCC District IV)

**REASON FOR REQUEST:** Revert to private use

**CURRENT ZONING:** The site is unimproved public right-of-way. The abutting north and south properties and the adjacent western properties are zoned "LI" Limited Industrial. The abutting eastern property is the Cowskin Floodway

The applicant is requesting vacation of the unimproved portion of right-of-way (ROW) as previously described. The 60-foot (x) approximately 475-feet of ROW intersects Hoover Road on its west side and ends at the Cowskin Floodway on its east side. Interstate Highway-235 ROW is east of the Floodway and the Cessna Aircraft facility is west of Hoover Road. The proximity of the proposed vacated ROW to the Floodway, Interstate Highway -235 and the Cessna facility make it unlikely that the ROW will ever be extended beyond its current location. The applicants own the abutting northern and southern properties. Both abutting properties have access onto Hoover Road that they are currently using, so the vacation of the ROW would not affected their access to Hoover Road. There are no manholes, sewer or water lines in the ROW. There is a storm drain line in the ROW. Westar has equipment in the ROW. The WB Carter Addition was recorded with the Register of Deeds April 7, 1970.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 24, 2005 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted street ROW and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the platted street ROW described in the petition should be approved with conditions:

1. Retain the vacated ROW as an access – utility – drainage easement.
2. Dedicate 10-foot of ROW along the northern and southern properties' Hoover frontage. Retain the west 10-foot of the vacated ROW.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
4. All improvements shall be according to City Standards, including any driveways from private property onto public ROW.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

1. Retain the vacated ROW as an access – utility – drainage easement.
2. Retain the west 10-foot of the vacated ROW.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
4. All improvements shall be according to City Standards, including any driveways from private property onto public ROW.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **BISHOP** seconded the motion, and it carried (9-0).

3-5. **VAC2005-10 – Request to Vacate a platted Utility Easement and Setback, located ¼ mile west of Rock Road, midway between 21st Street North and 13th Street North.**

**OWNER/APPLICANT:** Security Portfolio VII, LLC

**AGENT:** Baughman Company, PA, c/o Phil Meyer

**LEGAL DESCRIPTION:** All of the platted 10-foot utility easement, located 5-foot east of the west lot line and all of the platted 35-foot setback that both run parallel to the west lot line all on Lot 3, CCR 3rd Addition, Wichita, Sedgwick County, Kansas, except the north 111.50-feet thereof

**LOCATION:** Generally located approximately ¼ mile west of Rock Road, midway between 21<sup>st</sup> Street North and 13<sup>th</sup> Street North and abutting the south side of the Railroad right-of-way (WCC District II)

**REASON FOR REQUEST:** Allow more area to build

**CURRENT ZONING:** Subject property is zoned "LI" Limited Industrial. South abutting property is zoned "GO" General Office. West abutting property is zoned "SF-5" Single-Family Residential. East abutting property is zoned "LC" Limited Commercial. North abutting property is Railroad right-of-way.



The applicant is requesting consideration for the vacation of all of the platted 10-foot utility easement and the platted 35-foot setback as described. The applicant proposes the vacation to allow more area to build more storage units. The Unified Zoning Code (UZC) provides no interior side yard setback for the "LI" zoning district. The UZC's Compatibility Standards for an interior side yard setback when property is zoned "MF-18" Multi-family Residential or has a less restrictive zoning when adjacent to property zoned "TF-3" Two-family Residential or a more restrictive zoning, is a minimum of 15-feet, plus 1-foot for each 5-feet of lot width over 50-feet. The maximum interior side yard setback, per the Compatibility Standards, is 25-feet. The self storage facility (zoned "GO" General Office) south of the site, Lot 1, Security Storage Properties Addition, was required to have a 15-foot landscape buffer along the west side of their site, per condition #2 of BZA 35-84. The western abutting property is zoned "SF-5" and is developed as USD 259 Coleman Middle School. The school's playing fields abut the site. Placing the back of a storage facility against the USD/subject site's common property line basically provides solid screening at that location. There are no manholes, sewer or water lines in the platted easement. The CCR 3<sup>rd</sup> Addition was recorded with the Register of Deeds May 23, 1995.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted 10-foot easement and the platted 35-foot setback as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 24, 2004, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described platted easement and the platted setback and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted easement and the platted setback described in the petition should be approved with conditions:
1. Vacate the platted 35-foot setback, as described in the legal description. Waive the UZC's Compatibility Standards.
  2. Vacate the platted 10-foot utility easement, as described in the legal description, contingent upon approval by Public Works and the franchised utility companies.
  3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
  4. All improvements shall be according to City Standards.
  5. Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 35-foot setback, as described in the legal description. Waive the UZC's Compatibility Standards.
- (2) Vacate the platted 10-foot utility easement, as described in the legal description, contingent upon approval by Public Works and the franchised utility companies.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- (4) All improvements shall be according to City Standards.
- (5) Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **BISHOP** seconded the motion, and it carried (9-0).

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**3-6. VAC2005-11 – Request to Vacate platted Complete Access Control, located north of Harry Street and east of Meridian Avenue on the east side of Saint Clair Avenue.**

|                                   |   |              |
|-----------------------------------|---|--------------|
| <b><u>APPLICANTS/OWNER:</u></b>   | Schrander Brothers Construction, Inc  | Chris Ruffin |
| <b><u>AGENT:</u></b>              | Poe & Associates, Inc., c/o Tim Austin  |              |
| <b><u>LEGAL DESCRIPTION:</u></b>  | Generally described as allowing one drive onto Saint Claire Avenue and one drive onto Dooley Street all off of Lot 2, Block A, the Santa Fe Orient Industrial District 3 <sup>rd</sup> Addition, Wichita, Sedgwick County, Kansas |              |
| <b><u>LOCATION:</u></b>           | Generally located north of Harry Street and east of Meridian Avenue, more specifically northeast of the Harry Street – Saint Claire Avenue intersection.<br>(WCC District IV)   |              |
| <b><u>REASON FOR REQUEST:</u></b> | Additional access for employees and customers   |              |
| <b><u>CURRENT ZONING:</u></b>     | The site and the abutting southern and eastern properties are zoned "LI" Limited Industrial. The adjacent northern and western properties are zoned "TF-3" Two-family Residential   |              |

The applicant has applied for the vacation of the complete access control to allow one drive onto Saint Clair Avenue and one drive onto Dooley Street from Lot 2, Block A, the Santa Fe Orient Industrial District 3<sup>rd</sup> Addition. The applicant has requested the additional access for employee and customer parking lots. The site currently has access onto Harry Street, a two-lane arterial, off of Harry Court. Saint Clair Avenue is a paved residential street. Dooley Street is an unimproved dirt/sand residential street. There are single –family residences across these streets west and north of the subject site. There is a water line located in the Saint Clair Avenue right-of-way (ROW). A sewer line crosses the Dooley Street ROW onto the site. The applicant has provided Staff with a site plan. The Santa Fe Orient Industrial District 3<sup>rd</sup> Addition was recorded with the Register of Deeds December 27, 1978. Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted access control, per the approval of the Traffic Engineer, with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 24, 2005 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted complete access control and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of a portion of the platted complete access control described in the petition should be approved with conditions:

1. Vacate that portion of platted access control, as approved by the Traffic Engineer to allow one drive onto Saint Clair Avenue and one drive onto Dooley Street. The drive onto Saint Clair Avenue must line up with the open side yards between Lots 52 & 54, or the open side yard between Lots 56 & 54, whichever is the larger open side yard, all in the Stiles and Smith Addition. The drive onto Dooley Street must line up with South Everett Avenue. Provide Staff with a metes and bounds description of the location of the drives.
2. No truck traffic onto the access/drives onto Saint Clair Avenue and Dooley Street. Provide a covenant to be file with the Register of Deeds, which allows no truck and trailer or any other industrial vehicular traffic to use the drives onto Dooley Street and Saint Clair Avenue. Contact Public Works for signs to be posted advertising no truck and trailer or any other industrial vehicular traffic to use the drives onto Dooley Street and Saint Clair Avenue
3. Provide a petition for the paving of Dooley Street along the subject site's frontage.
4. Provided a site plan showing the proposed development's location and orientation of all buildings, employee/customer parking, truck/trailer parking, circulation and another features on the site. Employee and customer parking will be located along the north and west sides of the site, no truck or trailer parking allowed along the north and west sides of the site, where the employee/customer parking and circulation is located. The site plan will be reviewed and approved by Planning.
5. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
6. All improvements shall be according to City Standards, including any driveways from private property onto public ROW.

7. Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate that portion of platted access control, as approved by the Traffic Engineer to allow one drive onto Saint Clair Avenue and one drive onto Dooley Street. The drive onto Saint Clair Avenue must line up with the open side yards between Lots 52 & 54, or the open side yard between Lots 56 & 54, whichever is the larger open side yard, all in the Stiles and Smith Addition. The drive onto Dooley Street must line up with South Everett Avenue. Provide Staff with a metes and bounds description of the location of the drives.
2. No truck traffic onto the access/drives onto Saint Clair Avenue and Dooley Street. Provide a covenant to be file with the Register of Deeds, which allows no truck and trailer or any other industrial vehicular traffic to use the drives onto Dooley Street and Saint Clair Avenue. Contact Public Works for signs to be posted advertising no truck and trailer or any other industrial vehicular traffic to use the drives onto Dooley Street and Saint Clair Avenue.
3. Provide a petition for the paving of Dooley Street along the subject site's frontage.
4. Provided a site plan showing the proposed development's location and orientation of all buildings, employee/customer parking, truck/trailer parking, circulation and another features on the site. Employee and customer parking will be located along the north and west sides of the site, no truck or trailer parking allowed along the north and west sides of the site, where the employee/customer parking and circulation is located. The site plan will be reviewed and approved by Planning.
5. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
6. All improvements shall be according to City Standards, including any driveways from private property onto public ROW.
7. Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

BILL LONGNECKER The applicant has modified their request. They are dropping their request to have access control onto Dooley, with that being dropped, the Traffic Engineer has agreed to drop the condition of providing a petition for paving of Dooley Street along that subject site's frontage. The MAPD staff and the applicant are in agreement.

**MOTION:** Approve subject to staff recommendations and the modifications noted by staff and the applicant.

**MARNELL** moved, **GAROFALO** seconded the motion, and it carried (9-0).

**3-7. VAC2005-12 – Request to Vacate a Portion of a Platted Front Setback, located west of Meridian Avenue and south of 53<sup>rd</sup> Street North, more specifically southwest of the Sandkey Street – Sandkey Court intersection.**

|                                   |  |
|-----------------------------------|--|
| <b><u>OWNER/APPLICANT:</u></b>    | Kurt Bachman Building Inc, c/o Kurt Bachman  |
| <b><u>LEGAL DESCRIPTION:</u></b>  | The south 5-feet of the platted 25-foot front setback on Lot 9, Block 4, The Moorings North Addition, Wichita, Sedgwick County, Kansas.  |
| <b><u>LOCATION:</u></b>           | Generally located west of Meridian Avenue and south of the 53 <sup>rd</sup> Street North, more specifically southwest of the Sandkey Street – Sandkey Court intersection (WCC District VI) |
| <b><u>REASON FOR REQUEST:</u></b> | Existing encroachment  |
| <b><u>CURRENT ZONING:</u></b>     | Subject property and all abutting and adjacent properties are zoned SF-5" Single-family Residential.   |

The applicant proposes to vacate the south 5-feet of the platted 25-foot front setback to remove an encroachment of a bay window into the setback. This is also being done to satisfy a mortgage title inspection. The UZC's front setback for the "SF-5" zoning district is 25-feet. If the front setback was not platted the applicant could have applied for an Administrative Adjustment that would allow the setback to be reduced by 20%, i.e. reducing it to 20-feet. Water lines are in the right-of-way and sewer lines are in the platted 20-foot easement on the north side off the subject site. The Moorings North Addition was recorded with the Register of Deeds on December 9, 1997.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted front setback as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 24, 2004, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted setback described in the petition should be approved with conditions:
- (1) Vacate only that portion of the platted setback where there is an encroachment.
  - (2) Provide staff with accurate legal descriptions of the proposed portion of the vacated setback.
  - (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  - (4) All improvements shall be according to City Standards.
  - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate only that portion of the platted setback where there is an encroachment.
2. Provide staff with accurate legal descriptions of the proposed portion of the vacated setback.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
4. All improvements shall be according to City Standards.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **BISHOP** seconded the motion, and it carried (9-0).

3-8. **VAC2005-13 – Request to Vacate Restriction of Uses in Platters' Text, located east of Tyler Road and south of 29<sup>th</sup> Street North, off of the Pepper Ridge and Meadow Park Streets -intersection.**

|                                   |  |
|-----------------------------------|--|
| <b><u>OWNER/APPLICANT:</u></b>    | Fouts Geller Development Co, LLC, c/o Jim Fouts  |
| <b><u>AGENT:</u></b>              | Baughman Company, PA, c/o Phil Meyer   |
| <b><u>LEGAL DESCRIPTION:</u></b>  | Vacate the plat text's restriction of uses in regards to uses allowed in Reserve E, Fossil Rim Estates Addition, Wichita, Sedgwick County, Kansas    |
| <b><u>LOCATION:</u></b>           | Generally located east of Tyler Road and south of 29 <sup>th</sup> Street North, more specifically northeast of Pepper Ridge and Meadow Park Streets |
| <b><u>REASON FOR REQUEST:</u></b> | To allow a neighborhood swimming pool  |
| <b><u>CURRENT ZONING:</u></b>     | Subject property and all abutting and adjacent properties are zoned "SF-5" Single-family Residential.  |

The applicant is requesting consideration for the vacation of the restriction of uses in the plat's text for platted Reserve E, Fossil Rim Estates Addition. The uses that Reserve E has been set aside for include drainage purposes, landscaping, sidewalks, lakes, open spaces, berms and utilities confined to easements. The applicant requests the vacation to allow the additional uses of a neighborhood pool, parking and a pool house while retaining the existing allowed uses in Reserve E. There are no manholes or sewer and water lines in the reserve. The Fossil Rim Estates Addition was recorded with the Register of Deeds May 31, 2002.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the uses of that portion of Reserve E as described in the legal description to allow additional uses with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 24, 2005 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described uses of the platted reserve and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the uses of the platted reserve described in the petition should be approved subject to the following conditions:
- (1) Vacate the use restrictions as listed in Reserve E to allow the additional uses of a swimming pool and related facilities, a parking lot, a club house and recreational uses. Retain the original uses allowed in Reserve E of drainage purposes, landscaping, sidewalks, lakes, open spaces, berms and utilities confined to easements.
  - (2) Drainage and site plans must be provided to the Public Works Engineer for review and approval prior to the VAC2005-13 going to the WCC for final action and prior to the issuance of building permits.
  - (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  - (4) All improvements shall be according to City Standards.
  - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the use restrictions as listed in Reserve E to allow the additional uses of a swimming pool and related facilities, a parking lot, a club house and recreational uses. Retain the original uses allowed in Reserve E of drainage purposes, landscaping, sidewalks, lakes, open spaces, berms and utilities confined to easements.
2. Drainage and site plans must be provided to the Public Works Engineer for review and approval prior to the VAC2005-13 going to the WCC for final action and prior to the issuance of building permits.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
4. All improvements shall be according to City Standards.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**MOTION:** Approve subject to staff recommendations.

**MARNELL** moved, **BISHOP** seconded the motion, and it carried (9-0).

❖ **PUBLIC HEARINGS – ZONING ITEMS**

4. **Case No.: ZON2005-03** – Michael Mollett Trust No. 2, John C. Mollett Trust No. 2, Kathryn Mollett Small Trust No. 2, and Jane Mollett Whitlow Trust No. 2 c/o Mike Higgins, and Ritchie Development (owner), Greg Allison c/o MKEC (agent) Request Sedgwick County Zone change from "SF-20" Single-family Residential and "RR" Rural Residential to "LI" Limited Industrial on property described as;

The West Half of the Northeast Quarter of Section 3, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas. Generally located South of 29<sup>th</sup> Street North, one-fourth mile west of 127<sup>th</sup> Street East.

MAPC deferrals March 10, 2005 and March 24, 2005

**BACKGROUND:** The applicant is requesting to rezone an 81-acre tract from "RR" Rural Residential and "SF-20" Single-family Residential to "LI" Limited Industrial for development of industrial/warehousing types of uses. No specific users are identified for the tract.

The property comprises the western half of the northeast quarter section of land located southwest of 29<sup>th</sup> Street North and 127<sup>th</sup> Street East.

The surrounding property to the east and most of the north is zoned "RR" and is in agricultural use except for several large estates. A high-voltage Westar transmission line is located within the subject tract, paralleling the western edge of the tract. The property west of the transmission line is zoned "SF-20" but was approved for "LI" Limited Industrial in 2000; establishment of the "LI" zoning is pending until platting is completed. The property to the south is zoned "SF-5" Single-family Residential and is being developed with urban-scale single-family homes.

Because of the presence of single-family homes to the south and potential to the north, the proposed industrial use should meet site development standards designed to mitigate conflicts with nearby residential uses.

**CASE HISTORY:** The property is unplatted.

**ADJACENT ZONING AND LAND USE:**

|               |   |
|---------------|---|
| NORTH: "RR"   | Agricultural, suburban estate                           |
| SOUTH: "SF-5" | Single-family Residential subdivision under development |
| EAST: "RR"    | Agricultural, large estate                              |
| WEST: "SF-20" | Vacant  |

**PUBLIC SERVICES:** The site has access to 29<sup>th</sup> Street North, an unpaved two-lane county line road designated as a major collector and maintained by the township. No traffic counts or projections are available. No transportation improvements are programmed on capital improvements programs.

The developer would be required to pave 29<sup>th</sup> Street North to county road standards prior to development of any of the property.

The water line to serve the property is approximately one-half mile to the west on Greenwich and would require a water supply line project to the east edge of the property with a 16" line, responsible for the " equivalent. A sewer main line project would be required going north from the one-half mile line at Woodridge Street (in Fairmont Addition) to the north line of the property. Other normal services are available.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" of the 1999 *Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies the property as "low density residential".

The Industrial Locational Guidelines of the 1999 Update to the Comprehensive Plan recommend that industrial uses: (1) should be located in close proximity to support services and provide good access to major arterials, truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial uses; (2) should not feed directly into local streets in residential areas; and (3) should be located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The proposed site potentially would constitute an extension of other industrial uses if the property to the west, which is approved for "LI" zoning, develops with industrial uses. Traveling one-half mile westward from the site to Greenwich and one-half mile southward to K-96 keeps traffic away from existing residential neighborhoods to the east and south along 127<sup>th</sup> Street East. The presence of a residential neighborhood on the southern property boundary poses conflicts that would need mitigation to avoid violating the third industrial locational guideline.

**RECOMMENDATION:** Although the *Comprehensive Plan* recommends this tract for low-density residential use rather than industrial use, the *Comprehensive Plan* does recommend the abutting property to the east as industrial; furthermore, this abutting tract is approved for "LI" zoning subject to a protective overlay and platting. Also, the 150-acre tract west of Greenwich is being developed as Regency Park, an industrial park with a protective overlay. Another 130-acre tract located on the northwest corner of Greenwich and 37<sup>th</sup> Street North about one and one-half mile northwest of this request was approved subject to platting in 2003. When combined, these tracts represent an industrial/employment center developing in the vicinity, based on proximity to K-96 and Jabara Airport.

The subject tract already has a Westar high voltage transmission line along its western edge, which is less compatible with residential use in close proximity.

Impacts of industrial uses on the property to the south and industrial traffic on 127<sup>th</sup> Street East can be mitigated to a certain extent by a protective overlay. To mitigate industrial uses, the protective overlay incorporates provisions like those in effect for Regency Park Industrial Park.

The initial staff report included the use restrictions of Regency Park Industrial Park plus wider buffer and enhanced screening for this development along the corridors shown for residential development on the *Comprehensive Plan*. The case was deferred prior to MAPC considering the initial recommendations. After the deferral, the applicant met with some of the surrounding property owners and with staff to discuss modifications to the recommendations. The modifications had more use restrictions. Additional landscape buffering along 29<sup>th</sup> Street North would consist of a three-foot tall berm with evergreen trees planted on/along the berm except within platted reserves for detention. A 75-foot setback along the south and 25 feet on the east was suggested instead of 100 feet. A provision was added to allow ground signage on 29<sup>th</sup> Street North for uses within the tract without street frontage on 29<sup>th</sup> Street North.

Based on the additional discussions and information available, planning staff recommends that the request for "LI" Limited Industrial zoning be APPROVED, subject to platting the property within one year and subject to the following REVISED protective overlay conditions:

1. All uses permitted by right in the "LI" zoning district except the following uses: correctional facility; correctional placement residence, limited and general; day reporting center; recycling collection station, private and public; recycling processing center; kennel, boarding/breeding/training; night club in the city; night club in the county; pawn shop; secondhand store; sexually oriented business in the county; tattooing and body piercing facility (city); tavern and drinking establishment; asphalt or concrete plant, limited and general; transfer station; and grain storage. For any use with 100,000 square feet of floor area, a traffic study shall be prepared. The City Traffic Engineer may require that additional traffic improvements be guaranteed to support this traffic volume. The total average daily traffic generated by the uses within this property shall not exceed 8,000 ADT.
2. Screening shall be per Unified Zoning Code; however, any fences or walls shall be constructed of a consistent pattern and color. Along 29<sup>th</sup> Street North, a berm three feet tall planted with evergreen trees spaced no more than 30 feet apart shall be provided, with these trees located outside sight clearance zones of streets and drive openings, and except in platted reserves containing detention facilities.
3. Landscaping shall be as follows unless the site is annexed by the City of Wichita; if annexed, the Wichita Landscape Ordinance shall apply; otherwise the following requirements shall apply: (1) landscape buffer of one (1) shade tree or two (2) ornamental trees shall be provided along the screening fence or wall. (2) A landscaped street yard shall be provided along 29<sup>th</sup> Street North with an average depth of 20 square feet per lineal foot of frontage and one (1) shade tree or equivalent (two (2) ornamental trees or 10 shrubs per shade tree, but with a limit of no more than one-third of tree requirement being met by shrubbery) and (3) parking lot landscaping of one (1) tree per 20 parking spaces and allowing a credit for up to one-half the shade or ornamental trees in the landscaped street yard toward meeting this requirement and (4) continuous parking lot screening (minimum height of three (3) feet of shrubbery within the third growing season) of any parking lot within 150 feet of 29<sup>th</sup> Street North. A landscape plan prepared by a Kansas Landscape Architect for each lot indicating the location, type, and specification of plant materials shall be submitted to the Planning Department for its review and approval prior to the issuance of any building permits(s) on this land.
4. Storage of merchandise shall be allowed outside an enclosed building only in compliance with the general screening standards of the Unified Zoning Code and the following additional standards: (1) no outdoor storage or work areas shall be permitted in the front setback; (2) no required off-street parking space or loading area shall be utilized for storage; and (3) items stored outdoors shall be screened from view from 29<sup>th</sup> Street North or any residentially zoned property.
5. Roof-mounted equipment and loading docks, trash receptacles, ground level heating, air conditioning and mechanical equipment, free-standing coolers or refrigeration units, outdoor storage including portable storage containers, outdoor work areas or similar uses shall be screened from ground level view along 29<sup>th</sup> Street North and any residentially zoned property.
6. Minimum setback requirements shall be 35 feet along 29<sup>th</sup> Street North, 25 feet along nonresidential local streets, and 25 feet along residentially zoned property along the east side of the tract. Along the south line of this property the setback shall be 75 feet unless a buffer is platted, in which case for every foot of platted buffer the setback can be reduced by that number of feet but in no case with the setback be less than 25 feet.
7. Maximum height of 55 feet for all structures.
8. All signs shall be limited to signs that would be allowed in the "LC" Limited Commercial zoning district; no off-site, billboard or portable signs shall be permitted except for off-site signs advertising uses located within this tract that shall be allowed to have signage placed on signs fronting 29<sup>th</sup> Street North.
9. No building permits shall be issued for any development without municipal water and sewer service. Prior to any development, the developer shall be responsible for providing county standard paving to and across the site from the nearest paved arterial. County standard paving means six (6) inches of stabilized sub grade with six (6) inches of hot mix asphalt and includes proper ditches, side slopes and shoulders.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding property to the east and most of the north is zone "RR" and is in agricultural use except for several large estates. A high-voltage Westar transmission line is located within the subject tract, paralleling the western edge of the tract. The property west of the transmission line is zoned "SF-20" but was approved for "LI" Limited Industrial in 2000; establishment of the "LI" zoning is pending until platting is completed. The property to the south is zoned "SF-5" Single-family Residential and is being developed with urban-scale single-family homes.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20" Single-family Residential and "RR" Rural Residential. A high voltage transmission line occupies the western strip of the property. Low-density residential use is less desirable near the transmission line without an appropriately wide buffer. The tract is on the edge of urbanizing low-density neighborhoods (the Fairmont and the Hawthorne), thus urban scale residential use like "SF-5", the automatic zoning district unless another district is requested, would be more compatible than the suburban density ("RR" and "SF-20") currently in place.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main impact would be the potential for industrial traffic between residential neighborhoods and industrial uses in close proximity to residential uses to the south. The protective overlay is designed to mitigate the impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies the property as "low density residential". The Industrial Locational Guidelines of the 1999 Update to the Comprehensive Plan recommend that industrial uses: (1) should be located in close proximity to support services and provide good access to major arterials, truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing industrial uses; (2) should not feed directly into local streets in residential areas; and (3) should be located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas. The proposed site potentially would constitute an extension of other industrial uses if the property to the west, which is approved for "LI" zoning, develops with industrial uses. Property to the west, which is approved for "LI" zoning, develops with industrial uses. Traveling one-half mile westward from the site to Greenwich and one-half mile southward to K-96 keeps traffic away from existing residential neighborhoods to the east and south along 127<sup>th</sup> Street East. The presence of a residential neighborhood on the southern property boundary poses conflicts that would need mitigation to avoid violating the third industrial locational guideline. The protective overlay is designed to mitigate these impacts.
5. Impact of the proposed development on community facilities: The development would require extension of water and sewer services. Any use will require paving to county road standards prior to development, and depending on the types of industrial uses, it will most likely generate the need for widening the roads or adding accel or decel lanes.

DONNA GOLTRY The main concern for staff was protecting the integrity of the surrounding areas for future residential use, because, as we see it, this is pretty much the edge of where the industrial use ought to be going. We do have a set of Protective Overlay conditions.

BARFIELD On page 4, condition #4, does that mean outside storage will be allowed to be higher than the screening?

GOLTRY No, it should not be visible from 29<sup>th</sup> Street North and any residentially zoned property. That is basically the Office Warehouse screening standards.

GENE RATH, MKEC Ritchie Development is developing Regency Park, and I believe that next week there is a replat for the Subdivision Committee to review to reconfigure a couple of lots there (Regency Park), and that area is continuing to develop. The Big Dog Motorcycle business is the site immediately adjacent to the southwest of this site. Ritchie also has the 80 acres along 29th Street at the southeast corner of 29th and Greenwich and plan to begin the platting development there.

The applicant and a member of the MKEC staff meet with two of the property owners in the area who had made contact with the City staff. One lives immediately north of the development and is within the notification area that could protest, and the other property owner lives over a 1/4 of a mile away and is outside of the legal protest area. They had concerns over potential uses of the development and Ritchie has agreed to eliminate a number of the uses that are at least possible, and has written a letter to each of those owners indicating what they proposed to do.

Ritchie also is the developer of the Fairmount Addition just south of this area, and certainly does not want to do anything to jeopardize the buffer there. There is an existing hedgerow along the 1/2 mile line and we certainly intend to keep that, and intend to keep at least the 75-foot setback between the property line and any buildings along the south of the property.

GAROFALO Are you in agreement with the conditions?

RATH Yes, we are in agreement.

MICHAEL YOUNG, 2754 N. 127th, Wichita, KS 67226 I am east of the property 1/4 of a mile. We are outside of the protest area and we have a few concerns. I have two homes and my brother who is with me here is located in this area as well. Do we know anything more about what they are going to put there specifically? What is planned for this development? What is the time frame that we are looking at to develop the site? I am not sure about procedurally how things are done. Is it customary not to have a site plan at the time that you are asking for rezoning? What road paving, if any, is going to be done over and above the minimum that is required? I had a question about why the buffering was going to be reduced on the eastern side. On the 21st Street side, they will have more of a buffer but on our side, being the side a 1/4 mile in (from 127<sup>th</sup> Street East), I wasn't sure why that was going to be reduced. Is there any assurance at all that can be given at this point that the adjoining quarter section, the one right in front of us, just to the right of the red squared area, will not come back and be asked that will be zoned industrial as well? If we knew that buffer was going to stay there as opposed to creeping towards us even further, that would make a big difference to us.

ROB RAMSEYER, VICE PRESIDENT, RITCHIE DEVELOPMENT I will be answering some of these questions. We have worked with the neighbors and staff to try and work through most of the issues. As far as what we are planning to put there, we have no specific plans at this time. However, we anticipate the uses to be the same that are currently in the Greenwich Business Park Regency plat; they are lighter uses in these business parks that seem to be the demand at this point.

DUNLAP This is "LI" zoned?

RAMSMEYER Yes, it is "LI" zoned, there are lighter uses in these building parks, which seems to be the demand. It is the same zoning we are putting here, with the same or fewer restrictions on it. At this time we have no customers and we don't know what is going in there, but we are anticipating the same type of thing that is in Regency Park. As far as a time frame, we are about done with Regency Park. You all will be seeing a plat on the 80 acres on the southeast corner of 29th and Greenwich probably within a month. I would say that it is 2-4 years away, but that is depending on the marketplace at this point and time. As far as the site plan,



no, we are too early in the stage to provide a site plan but I would anticipate that it would be something similar in size lots, primarily in the 2-3 acres size lots similar to Regency Park. As far as the use of the east 80, in that quarter section, at this time, we do not know. If we had a plan for it, we would certainly share that, but we do not know. Our plan for paving would be to pave those roads in the normal course of platting. I would say that I would be surprised if any kind of truck traffic would utilize unpaved portions of 127th or 29th to get there. I think they would get there much quicker going down to Greenwich and then on up, I think with the wear and tear on their vehicles and time, it would be very surprising if that would happen. So that road would be paved in the normal course of platting and development.

DUNLAP How about the buffering on the east side of the 80?

RAMSEYER On "LI" my understanding is that there really are no setback requirements, but the buffering would be per zoning code. We have agreed to a 25-foot setback, and the screening would be a six-foot fence or wall or a solid evergreen buffer or a 6-foot berm or some combination thereof.

MARNELL My concern would be the south portion, where not only is it possible to be developed by residential but it is being developed by residential now. I saw in the report that the building height restriction was 55 feet and it would seem to me that would be an awfully high building stuck up against residential properties. Assuming that residential gets developed first and then later the industrial gets developed behind it, then you have conflicting interests there. The property owners now own it, but it is not Ritchie owning it anymore, and Ritchie would be developing the industrial with whatever best fits their interest. I think it would be a good idea to lower that height or add some distance away from that property on that south side.

RAMSMEYER We are the developer of the Fairmount residential in the south, and that is one reason why we'd have this zoning in place. The streets and so forth are not in that portion of the Fairmount yet, and that is another reason we want to get the zoning, because we want to get ahead of it and disclose it appropriately. We plan on platting some form of a buffer in there, and something to keep that hedgerow in there, to mitigate that--we are sensitive to that.

MARNELL Will we address that issue again at platting?

DUNLAP For the building height in the adjacent area?

SCHLEGEL This is the time to address that issue.

MARNELL I would like to see a reduction for the first 250-300 feet, because we don't know the time on development on this, and this might be 20 years from now before that last lot at the bottom end (south) goes in. And, the people who had the interest in the residential will be long gone. And, it will be whoever has the responsibility it is, to get that last land leased or sold or whatever the process maybe, particularly if it is sold the underlying land is no longer Ritchie (land) anyway.

RAMSMEYER Something to the effect of the southernmost buildings, if they are within X feet of the property, would be something less than that 55 feet?

MARNELL Yes, I would like to see them maybe 35 feet for the last 300 feet, and I wouldn't think with a parcel that size that it would be very restrictive.

RAMSMEYER Let me think about that question and come back to it in a little bit.

BISHOP It looks to me as if there is a drainage swale along the west side, a little bit, and then it curves to the south end of the property, and that seems to me a good place to leave some open space.

RAMSMEYER I do not know, that may be a terrace, because there is drainage, I know, and there is some here and we have some detention.

BISHOP I realize that is an issue that is left to platting, but along with the concern of the height of buildings, if there are drainage issues that may be an area to address--detention.

RAMSMEYER We do not have a site plan yet, but up here on 29th is a buffer...(away from podium) it is too early to tell at this time.

JOHNSON Between this and the industrial park that you have about full, are there covenants that you review every project that goes in, and you either approve or disapprove?

RAMSMEYER Yes, we have retained architectural control on every building.

JOHNSON That is the reason I wanted to bring that up, and that is why I would not be opposed to leaving the heights the way they are, because I know you go thoroughly over what you let in there.

YOUNG There is no question that people will take that shorter way.

DUNLAP Donna, I am concerned about paving and utilities, but let's look at 29th Street, are there any utilities there?

#### **TAPE CHANGE**

GOLTRY That is one of the requirements; that they extend them prior to development.

DUNLAP The paving is going to be done and the utilities are going to be on the applicant and not shared by the north side? I mean, we are not changing the zoning to cause those people on the north side to pay for something that they would not have to normally pay for are we?

GOLTRY It says, the developer shall be responsible for providing paving to county standard to and across the site from the nearest paved arterial. And Jim Weber specified the standard, which is listed in the staff report.

DUNLAP We are not talking about a 1/2 of a road?

GOLTRY We are talking about the whole road. This is actually an arterial type road. Now these are still township type roads, but when this is developed then it becomes a county/city road and then it would put the cost on the public at-large; this is what happens.

**MOTION:** Approve the zone change but restrict the building height to 35 feet on the southern 300 feet property.

**MARNELL** moved, **BISHOP** seconded the motion.

**SUBSTITUTE MOTION:** Approve the zone change per staff comments with the agreement that has been made with staff and the applicant.

**JOHNSON** moved, **HENTZEN** seconded the motion.

MARNELL If the same property was owned and being developed at the same time by a common owner I would have no problem at all with that because it would still be a common interest. But if the residential area develops first and part of that parcel gets a transfer of ownership, then we would have cross-purpose interests and the 55 feet could be right against the property line at the south end, and I don't think that is appropriate.

JOHNSON Presently the residential zoning and this parcel are owned by the same people. I guess I am glad that they are bringing it in here so before someone goes to buy a residential lot they understand what will be north of them. Secondly, there is quite a hedgerow between the two parcels and with the landscaping it is not unusual and, again being familiar with the way that they screen, what they do personally let into this industrial area, I feel comfortable with it.

DUNLAP I have a question for MKEC. We are going to vote on the substitute motion pretty soon, but the original motion, is that a problem for the applicant or the development?

GENE RATH I think that we prefer the 55; they are willing to compromise. Thirty-five feet is typically for residential or retail type of development and I don't think that we would like to go down as low as 35. Maybe 45 for that first 250-300 feet would be acceptable.

BARFIELD I think I am hearing a conflict between what the developer said. Sir, could you come back to the podium.

RAMSMEYER We would accept 45 feet on the first 250-300 feet of buildings on the southernmost buildings. Thirty-five feet is the residential height, and I think 45 feet is reasonable. There is a hedgerow that is 25 feet high itself and would cover the sight lines very well.

MARNELL I would like it to be 55 feet right against there. If we don't approve the substitute motion of just the staff report as it is, I would be willing to modify my original motion when it comes back to it--to 45 feet instead of 35 feet.

BISHOP I would agree to that modification as the second to the motion.

**SUBSTITUTE MOTION:** Approve the zone change per staff comments with the agreement that has been made with staff and the applicant.

**JOHNSON** moved, **HENTZEN** seconded the motion, and it FAILED (2-7) **JOHNSON, HENTZEN** in favor.

**ORIGINAL MOTION, AS MODIFIED:** Approve the zone change but restrict the building height to 45 feet on the southern 250 feet property.

**MARNELL** moved **BISHOP** seconded the motion, and it carried (9-0).

5. **Case No.: ZON2005-09 Associated with CON2005-09** – Dennis Niedens (applicant) Request Zone change from "SF-5" Single-family Residential to "TF-3" Two-family Residential and Conditional Use to permit more than one duplex on one lot on property zoned "TF-3" Two-family Residential on property described as;

Lot Thirty-Eight (38), Davis Gardens Addition, Wichita, Sedgwick County, Kansas. Generally located at the southwest corner of North Sheridan and Elm

**BACKGROUND:** The applicant requests TF-3 Two-family zoning on a .34-acre site, currently zoned SF-5 Single-family. The site was developed with a single-family dwelling, which burned recently. The applicant also requests a Conditional Use for two duplexes on the one existing lot. The applicant proposes one duplex with access from Elm Street, and the other with access from Sheridan. North of the application area, across Elm are SF-5 zoned single-family residences, further north is a B Multi-family zoned apartment complex. South of the site are MF-29 Multi-family zoned multi-family units. East of the application area are SF-5 zoned single-family residences, and to the west is a vacant SF-5 zoned lot and railroad tracks.

**CASE HISTORY:** The application area is platted as lot 38 of the Davis Gardens Addition.

**ADJACENT ZONING AND LAND USE:**

|        |         |                           |                           |
|--------|---------|---------------------------|---------------------------|
| NORTH: | "SF-5"  | Single-family residential | Single-family residential |
|        | "B"     | Multi-family residential  | Apartment complex         |
| SOUTH: | "MF-29" | Multi-family residential  | Multi-family residential  |
| EAST:  | "SF-5"  | Single-family residential | Single-family residential |
| WEST:  | "SF-5"  | Single-family residential | Vacant                    |

**PUBLIC SERVICES:** No traffic counts or future plans are available for either Elm or Sheridan, as they are both local residential streets. Sheridan is a two-lane, paved, local street with a 65-foot right-of-way (ROW). Elm is a two-lane unpaved local street with a 60-foot ROW.

All other normal public services are available at the site.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the application area as appropriate for "low density residential."

The Unified Zoning Code (UZC) permits multiple duplexes on one lot in TF-3 zoning with the approval of a Conditional Use. The UZC limits multiple dwellings on one lot in the TF-3 zone to 14.5 dwelling units per acre, this application is below that limit. The submitted site plan demonstrates compliance with the setback requirements of the UZC.

**RECOMMENDATION:** The immediate neighborhood is a mixture of single and multi-family development, and therefore not out of character with the proposed duplexes. Likewise, the proposed zone change is in complete conformance with the Land Use Guide of the Comprehensive Plan. Under the current SF-5 zoning the application area could be developed with three dwelling units, this zone change and conditional use request propose creating four dwelling units.

MAPD has not been contacted by any members of the public regarding this case.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to the following conditions:

- A. APPROVE the zone change (ZON2005-09) to "TF-3" Two-family Residential;
- B. APPROVE the Conditional Use Request (CON2005-09), subject to the following conditions:
  1. The site shall be developed in general conformance with the approved site plan.
  2. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The proposed rezoning and development of duplexes is not out of character with nearby single and multi-family zoning and uses.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with single-family residential units as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Rezoning and two-family development should have no negative effects on surrounding single-family residences. The proposed duplexes will serve as a transitional buffer from more intense multi-family development south of the site to the single-family homes north of the site.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies the area as appropriate for "low density residential" development, which is in conformance with the application. The proposed development is in accordance with the requirements of the Unified Zoning Code.
5. Impact of the proposed development on community facilities: The proposed duplex development should have no greater impact on community facilities than development that could take place under the current single-family zoning.

JESS MCNEELY Planning staff presented the staff report.

BARFIELD Have we heard this case before or one similar on this property?

MCNEELY I don't think so.

GOLTRY If it is the case that I am thinking about, it was 2-2 1/2 years ago and it was on Hoover Road.

DUNLAP That is not this property.

GOLTRY No.

BARFIELD The house that is there that is burned, is that owned by the applicant?

MCNEELY The property is owned by the applicant, so yes the house is owned by the applicant.

NIEDENS I am the new owner of this property. First of all I want to apologize to my neighbors, I have been through a few of these zoning requests and I have never missed a neighborhood meeting up until this time, and I was attending an out of state funeral so I am sorry I did not make it to the DAB VI meeting.

My intention is to tear down that house. Originally I thought about maybe saving the structure. It is a concrete structure and I would turn it into storage for the residence if I were able to do duplexes there, but after consideration and everything that I would have to do to accomplish that, I have made a contract with a contractor to tear that building down and build the duplexes.

WARNER How do you respond to the concern with the 15-foot setback on the one that faces north for a short driveway, how are you going to park a car there without being in the street?

NIEDENS I am not sure where in relationship to the property line you are indicating.

WARNER This one, right there, you are showing a 15-foot setback and a garage out to the 15 feet, you don't have enough room there to park a car.

NIEDENS No, on that particular side there wouldn't be room.

JOHNSON I would like to look at the aerial again.

WARNER Is it possible to increase that setback? Would that mess up your design?

NIEDENS No it wouldn't not at this point. If you wanted to maintain a 25-foot setback there I would be willing to do that.

WARNER I think that would be better.

MARNELL We are talking about a 15-foot setback from the property line, not from the street, correct?

WARNER Yes, I am sure that is true.

KENNETH AST, 750 N. SHERIDAN, WICHITA KS 67203 Several of my neighbors and I are opposed to this request. We welcome a new neighbor and putting a single-family dwelling there because this burned out property has been there since June of last year as an eyesore. We are trying to make this a nice neighborhood. The rental properties to the north and the ones at 739 N. Sheridan, all those use Elm Street. Across the front there that faces our houses, it is not curbed and guttered. Actually it is fairly narrow, and in order for me to park in front of my house I had to take out part of my yard to be able to park there. All this additional traffic that he is talking about if he puts two duplexes in there; that is at least four vehicles, possibly eight. I don't know how you are going to get those parked on Sheridan or Elm Street. With small duplexes it is just going to get people for a very short time and we would just assume have someone in there long-term.

DIANE SANCHEZ, 748 N. SHERIDAN, WICHITA, KS 67203 I live directly across from this proposed zone change. I have lived in my home over 10 years. I purchased this home based upon the neighborhood, single-family homes. Yes there are a few apartments and some rental property. The house across the street at that time was small but neat. The yard has been well maintained and there has been quite neighbors. The apartments to the north at Murdock and Sheridan are much better maintained than the apartments to the south but that did not concern me. Most of the homes on the east side of the street where I live, we have all taken the time, money and effort to care for our homes. The police activity has increased at the apartments to the south at Elm and Sheridan, domestic disturbances, traffic increases, speeding and racing. There have been police chases in our neighborhood that have ended at the apartment complex. Prior to June 2004 when the house did explode, renters have come and gone prior to the explosion. The maintenance of the house and the yard has begun to deteriorate. Cars have begun to be driven on the lawn. Trash has been dumped outside of their house, old water heaters, broken furniture, guinea hens, chickens and excessive dogs there.

We as neighbors have made numerous complaints about this property. Animal control has been out several times. The city has had to mow this lawn numerous times. The explosion of June 2004 was from an un-maintained septic system that was grandfathered in when the neighborhood was developed. The house burned and was a total loss. The tenants moved out and left all trash inside and outside of the building. The property had no insurance and therefore the city condemned this property. City officials told us that the house was to be demolished. In December the officials told us the City was out of money and you will have to wait until after the first of the year. After the first of the year we started calling and then we found out there was a potential buyer, Mr. Niedens. A dumpster appeared at the property, then a trailer appeared with trash piled onto it right next to that dumpster. No noticeable cleanup to that property has occurred. The street is not paved. There are no sidewalks, curbs or drainage system. The DAB unanimously denied this rezoning request. I ask you to deny this rezone request.

BARFIELD How long have you lived at your address?

SANCHEZ Over ten years.

BARFIELD How long has this property been vacant?

SANCHEZ Since June of 2004 when it blew up.

BARFIELD What was there prior to June 2004?

SANCHEZ It was a rental home.

MARLOW FORD, 746 N. SHERIDAN, WICHITA, KS 67203 I have some pictures I have here to share with the Board of our homes. As you can tell we have tried to keep our neighborhood clean and nice. Sheridan Street is the only street in our area that is not curbed and guttered. Elm Street, as you can see, dead ends at the corner and is a dirt lane. Before Elm Street and Sheridan, where the apartments are, that street was a dirt road, it has just been paved in the last year. When Mr. Niedens built those apartments, he said that he would get Elm paved. I tried to petition to not get the apartments but they passed, and he said that he would help get Elm Street paved. I feel the duplexes there would be a problem with the dirt road next to the apartment with the traffic. We are not against renters, it is just that we would like to have someone that is interested in our neighborhood and keep it well kept. Mr. Niedens wants the entrance of the duplexes to be on Sheridan and the other on Elm Street, and we feel that this will create a bad parking problem. The apartments at Sheridan and Elm, on the north side, there are a lot of handicapped people, and from time to time they require a lot of emergency care, and it will be hard for the emergency vehicles to get down there to help with any problems.

NIEDENS When I first purchased the house my intention was to go in and start demolition immediately. I found out later that the house had never been hooked up to the sanitary sewer in Wichita so I have been dealing with the Health Department and inspections and that type of thing. I should have a demolition permit tomorrow and intend to remove the house completely.

DUNLAP You have brought some additional trash in, what are you doing with that?

NIEDENS That is not trash that is building material that is off of my other job that I was going to use on that job.

HENTZEN When did you take ownership of this property?

NIEDENS Six weeks.

HENTZEN Do you own the apartments to the south?

NIEDENS No, I built those apartments back in the 70's and sold them to a group of investors.

SHERMAN In the two duplexes there will be four family units?

NIEDENS Correct.

SHERMAN How many people will this be designed to live there?

NIEDENS They will be two bedroom units with a bath, so 2-3 people per unit.

SHERMAN On the parking, how do they park in the apartment complex to the south there? So with the increase of the number of people who will be moving in this corner, again that is four cars that you are going to plan for, minimum?

NIEDENS This is a completely different site from that one; they are not in conjunction with each other so nobody would be parking in that parking lot.

SHERMAN Where are you going to have these four cars to park?

NIEDENS I am showing one car attached garage per unit, plus you have off street parking in front of the garage, is what I am showing at this point.

SHERMAN You have one garage per unit so it will be a double garage?

NIEDENS So one in the garage and one behind it.

BISHOP I wanted to clarify the length of the driveway issue. As I understand it, the streets in that issue are ditches and culverts, so in terms of parking spaces the person renting one-half of a duplex would need to park either in the one car garage or the driveway, and you have indicated that you don't have a problem increasing the drive off of Elm to 25 feet?

NIEDENS Correct.

BISHOP Does that mean you will have to decrease the drive off of Sheridan?

NIEDENS No, I have to maintain 25 feet minimum on Sheridan, all I am agreeing to do is maintain the same 25 feet off of Elm.

BISHOP But no other off street parking?

NIEDENS No.

GAROFALO From the rendering here these will not have basement?

NIEDENS No they will not.

JOHNSON I need to ask staff to go through the situation; he could do a lot split on this and put two duplexes on it?

MCNEELY Yes the site is large enough to do a lot split and do two duplexes each on there own separate lot. Mr. Niedens just chose in doing this Conditional Use to keep it as one legal lot and put two duplexes on it.

JOHNSON Explain what would trigger losing a Conditional Use on this?

MCNEELY What triggers the Conditional Use in this case is wanting to put two duplexes on the one legal lot. The Zoning Code does make a provision for being able to do that if you meet minimum area requirements.

JOHNSON If he doesn't follow certain conditions, he could lose the Conditional Use?

MCNEELY Yes.

JOHNSON What would happen in that case?

DUNLAP The house is already built and we don't comply we can't tear the house down. What will we do?

JOHNSON I like the Conditional Use because I think the neighbors will have more that they can say about it because it is not a platting issue it is a Conditional Use issue.

SCHLEGEL I am not clear what the question is.

JOHNSON If he ended up doing a lot split it would be a lot split, now since it is a Conditional Use I am trying to figure out in the event that he loses his Conditional use what will happen to the property?

SCHLEGEL If he loses the Conditional Use because he doesn't comply with the conditions then he is back where he is today then.

DUNLAP Except that we have two duplexes on the property.

SCHLEGEL You mean he builds the two duplexes? He wouldn't get the building permits to build the duplexes without complying with the conditions you set forth.

MCNEELY There are only two conditions on here, and only one condition is that he conforms to the site plan. There has been some discussion here about the site plan and that would be a condition that you, the Planning Commission, could alter. If he doesn't meet his site plan, he can't get a building permit that is the real condition in this case. Also if you would like to add another condition that he meets the proposed elevation that he has passed out to you, you could add that as another condition.

HENTZEN John is there anything that we can say to deny this request?

SCHLEGEL You can deny the Conditional Use; his next option would be to do the lot split.

HENTZEN He builds them anyway.

MCNEELY No, the zoning is currently SF-5, the only development that he could do legally today without a zone change would be single-family homes. He could take that piece of ground that you see right there and split it into three single-family homes as zoned today.

HENTZEN We can't say that it doesn't agree with the Comprehensive Plan.

BISHOP You are struggling with the findings.

MCNEELY The Golden factors 1-5, it has been staff's assessment that this is in fact in character with the neighborhood.

MARNELL I thought the applicant was trying to get a permit for a septic tank.

MCNEELY That is a non-issue. The old residence had a septic tank, which has made him getting a permit more of a mess.

SHERMAN In all fairness to Mr. Niedens he inherited a lot of problems. He can rezone this or build single-family homes without any changes.

MCNEELY Without a zone change

SHERMAN Just a lot split just single-family homes, which can be rentals or go with the CU with the duplex with the one lot...

MCNEELY What the applicant has requested is a zone change; the Conditional Use that he has requested is predicated upon the zone change that he has asked for.

SHERMAN But nothing prevents him from building three homes for rentals right now?

MCNEELY I thought I had come up with 15,000 because I thought he had enough for 3 – 5,000 square feet lots.

**MOTION** Approve the request subject to the submission to a new site plan to be approved by the Director to comply with parking requirements.

**MARNELL** moved

SCHLEGEL What are you looking for on that revised site plan?

MARNELL It has to have the required setback for the parking that this one does not.

DUNLAP He volunteered 25 feet on Elm.

JOHNSON Would you include the elevation where there is masonry on it and brick? I want it as compatible as possible because there are some nice residences here.

**REVISED MOTION:** Approve the request subject to the submission to a new site plan to be approved by the Director to comply with parking requirements and include the elevation where there is masonry on it or brick, so that it is compatible as possible because there are some nice residences here.

**MARNELL** moved **JOHNSON** 2nds.

**SUBSTITUTE MOTION:** Based on the elements of the Golden Rule that the zoning uses are out of character with the neighborhood and that we deny the application.

**BISHOP** moved **SHERMAN** seconded.

**SUBSTITUTE MOTION:** FAILS 3-6 (**BISHOP**, **SHERMAN** and **GAROFALO** in favor).

**REVISED MOTION CARRIES:** APPROVED 5-4. (**DUNLAP**, **GAROFALO**, **BISHOP**, **SHERMAN**, opposed).

DUNLAP I do not believe the Planning Commission should be imposing architectural values on the developer, not because I don't think the duplexes are a good thing.

JOHNSON The only reason I did in this case is because he submitted them to us so I felt like the applicant offered those to us.

6. **Case No.: CON2005-08** – First Christian Church of Derby (owner); Baughman Company, P.A., c/o Phil Meyer (agent) Request Sedgwick County Conditional Use to permit sports fields on property zoned "RR" Rural Residential on property described as;

The east 900.00 feet of the west 1506.10 feet of the south 1300.00 feet of the SW 1/4 of Sec. 8, Twp. 29-S, R-2-E of the 6th P.M., Sedgwick County, Kansas, EXCEPT the west 278.00 of the east 328.00 feet of the south 313.38 feet thereof. Containing 25.00 acres, more or less. Generally located at the northeast corner of 87<sup>th</sup> Street South and Rock Road.

**BACKGROUND:** The applicant is requesting a Conditional Use to allow sports fields on a 25-acre unplatted tract that is zoned "RR" Rural Residential and is located north of 87<sup>th</sup> Street South and east of Rock Road. The subject property is located within the Zoning Area of Influence for the City of Derby. The Derby planning commission considered the request on April 7, 2005, and recommend that the request be approved subject to the conditions contained in the "Recommendation" section of this report.

The applicant proposes two soccer fields and two ball fields with an accessory concession/restroom/picnic shelter, playground area, walking path, and parking area; however, the applicant indicates that portable restrooms are intended to be used initially. The applicant's proposed site plan is attached.

The applicant eventually proposes to construct a church on additional property the applicant owns that is located immediately to the west of the subject property. The sports fields would then become accessory to the church property; however, absent a principal use such as a church, sports fields are considered an outdoor recreation and entertainment use under the Unified Zoning Code (UZC). A Conditional Use is required for outdoor recreation and entertainment in the "RR" Rural Residential zoning district. The UZC indicates that a Conditional Use for outdoor recreation and entertainment shall be limited to a use that the Planning Commission has determined will not produce undue noise or attract large numbers of spectators.

The character of the surrounding area is a developing residential area on the fringe of the City of Derby. All properties surrounding immediately surrounding the subject property are zoned "RR" Rural Residential are used for agriculture; however, the properties east of Rock Road, approximately one-quarter mile to the west, are developed with single-family residences within the City of Derby.

Section III-D.6.o. of the UZC (attached) indicates that a Conditional Use for outdoor recreation and entertainment shall comply with six Supplementary Use Regulations. The Conditional Use request does not conform with one of the six Supplementary Use Regulations. The applicant proposes that the driveway and the parking area be gravel rather than concrete or asphalt. UZC Supplementary Use Regulations for a Conditional Use can only be waived by the Board of County Commissioners upon receiving a favorable recommendation from the Planning Commission.

Section IV-A.4. of the UZC requires one parking space per three spectator seats, one parking space per 1,000 square feet of field area, plus one parking space per 250 square feet of office area. Based on the field area alone, the parking requirement for the proposed sports fields exceeds 150 parking spaces, which is significantly greater than the 104 parking spaces proposed by the applicant to be eventually provided. The only manner in which the parking requirement can be reduced to such an extent is through the approval of a Variance by the Board of Zoning Appeals.

Section IV-B.3. of the UZC requires screening of the subject property from the adjacent properties that are zoned "RR" Rural Residential. Screening may be provided by a solid fence, evergreen vegetation, or landscaped earth berms. Section IV-B.3.a.

allows a waiver of the screening if a 15-foot landscape buffer is provided adjacent to the residentially-zoned properties. An adjustment may be granted by the Planning Director to waive the 15-foot landscape buffer when the conditions described in Section V-I.2.m. are met. If the subject property does not meet these conditions, then the only manner in which the 15-foot landscape buffer may be waived is through the approval of a Variance by the Board of Zoning Appeals.

**CASE HISTORY:** The subject property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR" Agriculture  
SOUTH: "RR" Agriculture  
EAST: "RR" Agriculture  
WEST: "RR" Agriculture

**PUBLIC SERVICES:** Access to the subject property is from 87<sup>th</sup> Street South, an unimproved section-line road. Public water and sewer service would need to be extended to the subject property by the City of Derby. Initial plans are to use on-site water and sewer services.

**CONFORMANCE TO PLANS/POLICIES:** The Sedgwick County Development Guide of the Comprehensive Plan designates this area as a Small City Growth Area for the City of Derby. The Future Land Use Map in the Derby comprehensive plan indicates that the subject property is appropriate for future residential development. Sports fields are typically located within and considered an amenity to a residential area.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use shall be restricted to a privately owned area for sports fields and accessory uses such as concessions, restrooms, picnic areas, playground areas, and walking paths. No other outdoor entertainment and recreation activities shall be authorized by the Conditional Use.
2. All requirements of Section III.D.6.o. of the Unified Zoning Code shall be met, except as modified by the conditions of the Conditional Use.
3. The subject property shall be platted prior to the issuance of a building permit for the concession/restroom picnic shelter.
4. The use of chemical portable toilets shall be permitted. The portable toilets shall be located at least 300 feet from any property line and shall be enclosed on three sides by a screening fence, including fencing on the south side. Documentation of an ongoing maintenance contract for the removal of the waste from the chemical portable toilets shall be provided to the Sedgwick County Code Enforcement Department. The disposal of waste from the chemical portable toilets shall be in accordance with Sedgwick County's sanitation codes.
5. Operation of the sports fields shall be limited to daytime hours only. No lighting of the sports fields shall be permitted.
6. Prior to commencement of grading on the site, a grading and drainage plan shall be approved by the Sedgwick County Department of Public Works.
7. The access drive shall be surfaced with an all weather surface approved by the Sedgwick County Fire and Public Works Departments until such time as 87<sup>th</sup> Street South is paved at which point the access drive shall be paved with asphalt or concrete.
8. The number of parking spaces provided shall be in accordance with Section IV-A.4. of the Unified Zoning Code, and the parking area shall be surfaced with an all weather surface approved by the Sedgwick County Fire and Public Works Departments until such time as 87<sup>th</sup> Street South is paved at which point the parking area shall be paved with asphalt or concrete. Fewer parking spaces may be provided if a variance or adjustment is granted in accordance with Article V of the Unified Zoning Code.
9. A 15-foot landscape buffer in accordance with Section IV-B.3.a. of the Unified Zoning Code shall be provided along all property lines where abutting a residential zoning district unless a variance or adjustment is granted in accordance with Article V of the Unified Zoning Code.
10. The sale of concessions shall be incidental to the permitted outdoor entertainment and recreation use and shall be in conformance with applicable health regulations. The sale of alcoholic beverages is prohibited.
11. The applicant shall receive approval by the Planning Director of a revised site plan that reflects all conditions of approval. The site shall be developed and operated in general conformance with the approved site plan. All improvements, except indicated future improvements, shall be completed prior to the commencement of operations.
12. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
13. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:



1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a developing residential area on the fringe of the City of Derby. All properties surrounding immediately surrounding the subject property are zoned "RR" Rural Residential and are used for agriculture. Sports fields are consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "RR" Rural Residential and is presently used for agriculture. The proposed sports fields may be permitted in the "RR" Rural Residential zoning district through approval of a Conditional Use as long as the Planning Commission has determined that it will not produce undue noise or attract large numbers of spectators.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Sedgwick County Development Guide of the Comprehensive Plan designates this area as a Small City Growth Area for the City of Derby. The Future Land Use Map in the Derby comprehensive plan indicates that the subject property is appropriate for future residential development. Sports fields are typically located within and considered an amenity to a residential area. The proposed sports fields should not produce undue noise or attract large numbers of spectators; therefore, it is consistent with the provisions of the Unified Zoning Code.

SCOTT KNEBEL Planning staff presented the report.

BISHOP We have the additional conditions that you mentioned and if that is agreeable with the applicant then I don't need a full report.

KNEBEL Yes, the applicant agreed to those conditions at the Derby Planning Commission.

BARFIELD I asked for this case to be pulled because of the Derby Planning Commission inserted their conditions and I wanted to make sure that the applicant was in agreement to those conditions.

JOHNSON I was at that meeting and I think they did.

KNEBEL They did agree.

GAROFALO Is the access only off of 87th Street?

KNEBEL Yes, that is correct.

**MOTION:** Approve including Derby's recommended conditions.

**JOHNSON** moved, **HENTZEN** seconded the motion, and it carried (9-0).

7. **Case No.: CUP2005-14 DP283 (ZON2005-10)** – Heights, LLC, Jay W. Russell, Managing Member (owner); Baughman Company, PA, c/o Terry Smythe (agent) Request The creation of Falcon Falls Commercial Community Unit Plan; and Zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

Beginning at the SE corner of the SE 1/4 of Section 22, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence S 89 degrees 39'55"W along the south line of said SE 1/4, 1500.00 feet; thence N 00 degrees 20'05"W perpendicular to said line south line, 65.00 feet; thence N 59 degrees 01'12" E, 157.06 feet; thence N 43 degrees 58'19" E, 75.00 feet; thence N 30 degrees 15'17" E, 320.00 feet; thence N 22 degrees 05'36" E, 168.00 feet; thence N 49 degrees 33'27" E, 120.00 feet; thence N 74 degrees 59'22" E, 270.00 feet; thence N 44 degrees 22'19" E, 180.00 feet; thence N 29 degrees 21'37" E, 540.30 feet; thence N 15 degrees 31'04" E, 385.26 feet; thence N 26 degrees 42'26" E, 260.68 feet; thence N 89 degrees 47'41" E, perpendicular to the east line of said SE 1/4, 119.00 feet to a point on the east line of said SE 1/4; thence S 00 degrees 12'19" E, along the east line of said SE 1/4, 1975.00 feet to the point of beginning EXCEPT that part condemned for K-254 Highway in Condemnation Case No. B-19603, all being subject to road rights-of-way of record. Generally located on the northwest corner of 45<sup>th</sup> Street North and Hillside.

**BACKGROUND:** The applicant proposes to create a commercial Community Unit Plan containing approximately 20 acres with two parcels zoned "LC" Limited Commercial. The property is located on the northwest corner of Hillside Avenue and 45<sup>th</sup> Street North, where these roads are intersected with K-254. The on-ramp from Hillside to K-254 forms the southeastern boundary of the site.

The CUP would allow all uses permitted by right in "LC" except the following uses to be prohibited: adult entertainment, sexually oriented businesses, group homes, group residences, correctional placement residences, asphalt/concrete plants, private clubs, taverns and drinking establishments. Parcel 1 is 2.87 acres and is located north of a drainage way running between Hillside and Chisholm Creek. Parcel 2 is 17.34 acres and lies along the K-254 on-ramp. Chisholm Creek borders the site from southwest to northeast. The creek is a natural feature separating the proposed commercial tract from the residential use being platted on the other side of the creek.

Setbacks are 35 feet on perimeter of property. Maximum building coverage is 30 %, floor area ratio is 0.35, and maximum building height is 45 feet. Three buildings would be permitted on Parcel 1 and six on Parcel 2. Buildings would share uniform architectural

character; light poles would be similar or consistent and limited to 24 feet in height. The CUP requires a pedestrian plan connecting the buildings with 45<sup>th</sup> Street North and Hillside, internal cross-lot circulation, and site plan approval of internal circulation.

Ground signage would be per code except for stipulating 30 feet as the maximum height. A 30-foot height is allowed in the "LC" district by trading off one of the permitted sign locations for an additional five feet of height above 25 feet, based on a spacing of 150 feet apart for ground signs. The CUP prohibits off-site or portable signs, signs on rear of buildings and flashing/rotating/moving signs except time and temperature or public message signs, and limiting window display signs to 25 % of window area.

The surrounding area is undergoing a wave of development. The area to the north and west is being platted or is under development as Falcon Falls, a single-family subdivision zoned "SF-5" Single-family Residential. Wichita Heights High School is one-third mile to the north. Suburban ranches on property zoned "SF-20" Single-family Residential are located east of Hillside. The land south of K-254 is a highway maintenance facility, some vacant land zoned "SF-5" and "LC", and a fuel storage tank farm, zoned "GI" General Industrial.

**CASE HISTORY:** The property is not platted, but a preliminary plat has been submitted.

**ADJACENT ZONING AND LAND USE:**

|        |                    |  |
|--------|--------------------|--|
| NORTH: | "SF-5"             | Single-family Residential, high school         |
| SOUTH: | "SF-5"; "LC"; "LI" | Vacant, fuel storage tank farm                 |
| EAST:  | "LC"; unzoned      | Highway maintenance facility, suburban ranches |
| WEST:  | "SF-5"; "SF-5"     | Vacant, suburban                               |

**PUBLIC SERVICES:** The 2004 traffic count for 45<sup>th</sup> Street North between Hillside and Hydraulic was 1,203 cars per day. No count was available for Hillside. Currently, 45<sup>th</sup> Street North and Hillside are improved as two-lane county arterial roads. Requested access would be two openings onto 45<sup>th</sup> Street North and two onto Hillside. At the preliminary plat review, the Subdivision Committee recommended two openings onto Hillside, with one being aligned with 48<sup>th</sup> Street North and the other being 130 feet south of the drainage way running between Hillside and the creek that separates Parcel 1 from Parcel 2. One full movement opening was recommended for 45<sup>th</sup> Street North. Originally the requested separation was 400 feet, but alignment with on-ramp entrance is preferred. It is recommended the western entrance only be allowed as a right-in/right-out entrance.

Other normal public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "commercial", and "low density residential".

**Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed CUP is in general conformance with the Comprehensive Plan commercial objective/strategies and land use locational guidelines for minimizing detrimental impacts and planned development.

**RECOMMENDATION:** The proposed CUP is located along two arterial roads where they are intersected by a major highway, K-254. The extreme corner of the site is already zoned "LC". Because the tract is sandwiched between K-254 and a creek, it affords a good location for commercial development. Although Wichita Heights High School has been located one-third mile to the north for 35 years, very little other development has occurred until the last year. The influx of rooftops in the vicinity, both from Falcon Falls development and other new residential development along 45<sup>th</sup> and Hydraulic would encourage neighborhood commercial services for the tract and the proximity to K-254 might allow some highway oriented businesses.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2005-00010) subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-283), subject to the following conditions:
  - 1. The western 30' opening on 45<sup>th</sup> Street North shall be right-in/right-out only.
  - 2. The location and length of accel/decel lanes and center left-turn lanes shall be determined at time of platting.
  - 3. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  - 4. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  - 5. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
  - 6. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-283) includes special conditions for development on this property.
  - 7. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is undergoing a wave of development. The area to the north and west is being platted or is under development as Falcon Falls, a single-family subdivision zoned "SF-5" Single-family Residential. Wichita Heights High School is one-third mile to the north. Suburban ranches on property zoned "SF-20" Single-family Residential are located east of Hillside. The land south of K-254 is a highway maintenance facility, some vacant land zoned "SF-5" and "LC", and a fuel storage tank farm, zoned "GI" General Industrial.
2. The suitability of the subject property for the uses to which it has been restricted: The proposed CUP is located along two arterial roads where they are intersected by a major highway, K-254. The extreme corner of the site is already zoned "LC". Because the tract is sandwiched between K-254 and a creek, it affords a good location for commercial development, more than low-density residential. Although Wichita Heights High School has been located one-third mile to the north for 35 years, very little other development has occurred until the last year. The influx of rooftops in the vicinity, both from Falcon Falls development and other new residential development along 45<sup>th</sup> and Hydraulic would encourage neighborhood commercial services for the tract and the proximity to K-254 might allow some highway oriented businesses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The highway and the creek both provide good buffers to contain the effects of the commercial uses on surrounding properties, except to the east of Hillside.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "commercial", "institutional", and "low density residential". The project is in conformance with this recommendation except for Parcels 1 and 2 ("institutional") and Parcel 13 ("low-density residential"). **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed CUP is in general conformance with the Comprehensive Plan commercial objective/strategies and land use locational guidelines for minimizing detrimental impacts and planned development.
5. Impact of the proposed development on community facilities: The increased traffic from higher intensity of use can be addressed by accel/decal lanes and left-turn lanes

DONNA GOLTRY Planning staff presented the report. I would like to offer that we need to strike one of the prohibited uses and that is group homes. Other than that, staff has no comments.

DUNLAP Then we need to hear a little of that Item 7.

GOLTRY We don't really need to hear it because the applicant is in agreement with the change.

BISHOP I would like a clarification. If the change is to remove some of the prohibited uses, what are those?

GOLTRY Group homes, and it is because it is a protected class of use by the State.

BISHOP What kind of group homes?

GOLTRY The Zoning Code definition of "group homes", which are group homes that are regulated by the State.

MILLER They are only for handicapped folks that meet the definition by the State.

**MOTION:** Approve subject to staff recommendations and the modifications by staff and the applicant.

**DUNLAP** moved **MARNELL** seconded the motion, and it carried (9-0).

8. **Case No.: PUD2005-01** – Janet Hoover (applicant); Savoy Company PA c/o Mark Savoy (agent) Request The creation of the Royal Magnolia Planned Unit Development on property described as;

Parcel #1:

A tract in the NE1/4 of Sec. 31, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 939.39 feet west of the N.E. Corner of said NE1/4 and on the north line of said NE1/4; thence south, at right angles to said north line, a distance of 500 feet; thence west, parallel to the north line said NE1/4, a distance of 634.08 feet; thence north, a right angles, a distance of 500 feet to a point on the north line of said NE1/4, said point being 1573.47 feet west of the N.E. Corner of said NE1/4; thence east, on said north line, a distance of 634.08 feet to the point of beginning.

Parcel #2:

A tract in the NE1/4 of Sec. 31, Twp 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas, described as beginning at a point 1573.47 feet west and 500 feet at right angles south of the N.E. Corner of said NE1/4; thence east, parallel with the

north line of said NE1/4, a distance of 751.25 feet more or less, to a point 822.22 feet west and 500 feet south of the N.E. Corner of said NE1/4; thence south, a distance of 513.04 feet, more or less, to a point 1015.12 feet south and 809.11 feet west of the N.E. Corner of said NE1/4; thence west, a distance of 750 feet more or less, to a point 1573.47 feet west and 1011.60 feet south (at right angles) of the N.E. Corner of said NE1/4; thence north, 511.60 feet more or less, to the point of beginning. Generally located South of 37<sup>th</sup> Street North and west of Maize Road.

JESS MCNEELY Planning staff presented the staff report. You should have letter added to your packet today from the neighbor to the west; she had concerns on parking. She has horses on her property, and is concerned with getting in and out of her driveway with a trailer. She didn't stay for this meeting, as long as the parking situation is under control she is not opposed to the request.

BISHOP I would like to know what the proposed use is, it looks like the idea is to create an office, a park, and a reception area?

MCNEELY They have split the application area into three different parcels. Parcel A in the southwest corner would be just single-family residential. Parcel B already has a single-family home on it and existing large metal storage building, they would proposed being able to general office use on this site. Likewise any storage that would be in support of the actual primary business, which would take place on Parcel C. Parcel C would be an event and reception facility primarily geared towards weddings and it has the onsite parking and landscaping to go along with that.

BISHOP I have a question about the parking and would like to ask Mr. Savoy.

MARK SAVOY I am representing the applicant, and the applicant is here if we need to ask questions.

BISHOP It looks from the site plan that there is a fair amount of parking available; do you expect that will be sufficient for the size of the building and for the attendance?

SAVOY Yes, that was our intention to provide enough parking to satisfy any events that take place there and not park on 37th Street. I chatted with the neighbor and she wasn't overly concerned but her gooseneck trailer is hard to motivate onto the regular road so if there were cars parked along that road she would have trouble getting through there. We anticipate no parking on 37th Street at all.

DUNLAP I am amazed that we are going to get 600 people out here on the grass and hope it doesn't rain.

SAVOY Just looking to the very most outside event and that would be a average wedding about 150 – 200 guests and it was looking at that type, this will be upper class with the pond.

MARNELL The parking that is shown north of that reception building, when you go north of that parking lot that could also be used for parking?

SAVOY Correct that is what we call overflow parking on the grass.

BARFIELD The neighbor is concerned about noise, how far is the reception facility from her house?

SAVOY It's several hundred feet. Any bands, a DJ's; I am sure that we restricted those to being inside the reception hall-facility and not outside. Property line to property line we are at least 400 feet away from her property.

BARFIELD What kind of hours?

SAVOY Limited hours, 12:30 a.m. will be the latest they will be open.

BISHOP Where did you find that?

SAVOY On the very bottom near Parcel C.

**MOTION:** To approve subject to staff recommendations.

**MARNELL** moved, **WARNER** seconded the motion, and it carried (9-0).

9. **Case No.: CUP2005-12** – Sonleo, LLC (owner); Trimark Signworks c/o Byron West (agent) Request Amendment #9 to DP195 The Comotara Power Center Community Unit Plan on property described as;

Part of Lot 1, Block 1, Comotara Power Center 2nd Addition to the City of Wichita, Sedgwick County, Kansas, described as follows:

Beginning at the Southwest corner of Lot 1, thence N 01 degrees 04'59"W on the West line of said Lot 1, for a distance of 117.63 feet; thence N 88 degrees 54'55" E for a distance of 507.08 feet; thence S 01 degrees 04'59"E parallel to the West line of said Lot 1 for a distance of 168.70 feet to the South line of said Lot 1; thence N 85 degrees 57'48" W on the South line of said Lot 1 for a distance of 455.64 feet; thence N 80 degrees 02'21"W on the South line of said Lot 1 for a distance of 54.26 feet to the point of beginning. Generally located West of Rock Road north of K-96.

**BACKGROUND:** The applicant is requesting an amendment to DP-195 Comotara Power Center CUP to increase the height of the ground sign for Parcel 11 from 20 feet to 35 feet. The CUP is zoned "LC" Limited Commercial.

Parcel 11 is developed with a freestanding sit-down restaurant, and that the taller sign would enhance the visibility of the restaurant and compensate for the elevated height of the K-96 roadbed along the parcel.

Currently, one monument sign no taller than 20 feet is permitted on Parcel 11, and another on Parcel 12. The 35-foot tall sign would replace the 20-foot tall sign allowed for Parcel 11. Both would continue to be limited to 100 square feet in size. The parcel has adequate frontage for a total of four signs spaced 150 feet apart. However, since the Wichita Sign Code allows trading off a ground sign for an additional five feet in height, the sign could be up to a maximum of 35 feet and be considered as using three of the authorized sign locations for the frontage. The current sign is required to be monument style, which requires a base at least half the width of the sign face. The proposed sign has a width of 20 feet, which would dictate a 10-foot wide base extending 30 feet in height to the sign face. Because this is a fairly massive base, staff is recommending a modification to allow either a monument base or a pole with a covering that is a minimum of four feet in width.

The character of the surrounding area is predominately commercial to the north and east along Rock Road zoned LC "Limited Commercial" and "GC" General Commercial, multi-family zoned "MF-18" Multi-family Residential to the south of K-96, vacant land zoned "MF-29" Multi-family Residential to the west, and single-family zoned "SF-5" Single-family Residential to the northwest.

**CASE HISTORY:** The subject property is platted as part of Lot 1, Block 1 Comotara Power Center 2<sup>nd</sup> Addition, which was recorded August 9, 1995. The subject property is located within the Comotara Power Center CUP, which was originally approved February 27, 1990 and has been amended numerous times since that date. Amendment #7 (approved December 7, 1999) created Parcel 11, Amendment #8 (approved January 23, 2001) expanded the permitted uses for this parcel to allow vehicle sales, and an administrative adjustment (approved April 23, 2004) split the land into the two parcels (Parcels 11 and 12) as now constituted.

**ADJACENT ZONING AND LAND USE:**

|                       |   |
|-----------------------|---|
| NORTH: "LC"           | Various commercial uses, primarily retail |
| SOUTH: "MF-18"        | Apartments                                |
| EAST: "LC"            | Various commercial uses, primarily retail |
| WEST: "MF-29"; "SF-5" | Vacant, single-family residences          |

**PUBLIC SERVICES:** The site has access to Rock, a six-lane arterial street. Traffic volumes on Rock are approximately 26,000 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Rock will increase to approximately 30,000 vehicles per day by 2030. Municipal water and sewer services are available or can be extended to serve this site.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "commercial" development.

**RECOMMENDATION:** Based on the information available prior to the public hearing, staff recommends the amendment be APPROVED subject to the following conditions:

1. Parcel Provision 11 shall be amended to allow one ground sign a maximum of 35 feet in height and 100 square feet in size for advertising those items offered on Parcel 11; the sign may be monument-type or a pole with a covering of at least two feet in width and shall be located at least 60 feet east of the southwest corner of the Parcel.
2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
4. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Parcel 11 is developed with a freestanding sit-down restaurant. The character of the surrounding area is predominately commercial to the north and east along Rock Road zoned "LC" Limited Commercial and "GC" General Commercial, multi-family zoned "MF-18" Multi-family Residential to the south of K-96, vacant land zoned "MF-29" Multi-family Residential to the west, and single-family zoned "SF-5" Single-family Residential to the northwest.
2. The suitability of the subject property for the uses to which it has been restricted: The property is developed in conformance to the existing CUP.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The taller sign might be visible from the residential neighborhood to the northwest.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed amendments are in conformance with the *Comprehensive Plan* for "commercial" use.
5. Impact of the proposed development on community facilities: The impacts of additional traffic flow into and out of the center would be minimal.

**MOTION:** Approve subject to staff recommendations.

**DUNLAP** moved **MARNELL** seconded the motion, and it carried (9-0).

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10. **Case No.: DR2005-12** – Request The City of Valley Center seeks annexation of lands located near the flood control drainage channel, and adjacent to The City of Valley Center on property described as;

**Background:** On January 4, 2005, the City of Valley Center passed Resolution No. 475-05 authorizing a public hearing on May 17, 2005 for the purposes of considering the unilateral annexation of three tracts of lands located near the Flood Control Drainage Channel, adjacent to the City of Valley Center.

The proposed annexation area falls within the Small City Growth area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in 2002. The subject area has also been identified as a future growth area in the City of Valley Center's currently adopted Comprehensive Plan. It is possible that these tracts could be efficiently serviced and maintained by the City of Valley Center. Prior to unilaterally annexing property, Kansas statutes require that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation. The City of Valley Center has not submitted to the MAPD, a service plan describing the extension of services to the annexation area.

**Analysis:** Kansas statutes governing unilateral annexations provide for official notification to certain local officials, including planning commissions having jurisdiction in the area. Additionally, Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city.

After review by staff, it has been concluded that the proposed annexation of three tracts of land located near the Flood Control Drainage Channel, adjacent to the Valley Center city limits is compliant with the intent of the Wichita-Sedgwick County Comprehensive Plan.

**Recommended Action:** That the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 475-05 of the City of Valley Center to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan

**Attachments:** Attachment No. 1 - Resolution No. 475-05 and map.  
Attachment No. 2 - Sedgwick County Development Guide (01/02)

**MOTION:** Approve subject to staff recommendations.

**DUNLAP** moved **MARNELL** seconded the motion, and it carried (9-0).

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11. Other matters/adjournment.

JOHN SCHLEGEL On April 28th we are going to have a workshop on downtown development and starting at noon. Your Chairman has arranged for representatives from Real Development to be here and those are the investors St. Paul, MN that are buying buildings downtown so they are going to fill you in on what some of their plans are and then there will be a update on the arena between me and Ron Holt and the redevelopment plan for the area around the arena.

DUNLAP We have invited the BOCC, the County Manager, the WCC, the City Manager, and staff from both the City and the County, and we are trying to get everyone together that might be interested in what we are going to do downtown and the arena. One is the arena itself and the other the surrounding downtown development surrounding the major arena.

BARFIELD When you talk about surrounding the arena have we designated where the arena is going to be?

DUNLAP Yes we have.

SCHLEGEL Wait, there is a large blue area, but the site has not been selected yet.

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The Metropolitan Area Planning Department informally adjourned at 3:39 p.m.

State of Kansas     )  
Sedgwick County    ) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)